



August 23, 2018
7:50 p.m.

MEMBER COMMENTS:
PROPOSED NEW SHORT TERM RENTAL RULES AND ENFORCEMENT PROCEDURES
PROPOSED NEW AND AMENDED PRIVATE PROPERTY RULES
August 17 thru 23, 2018

Below are comments sent in for the 45-day member notification and comment period for the proposed new Short-Term Rental Rules and Enforcement Procedures, and new and amended Private Property Rules. Comments were received August 17 thru 23, 2018. A total of 22 comments were received.

My comments regarding the above changes are as follows:
New Covenants and Amended Private Property Rules

- Enforcement of property quiet hours from 10PM-7AM - **THIS SHOULD ALSO INCLUDE AIR CONDITIONING UNITS**

New Covenants Short-Term Rental Rules and Fine Schedule

- Thirty-minute owner response window for all complaints - **I APPRECIATE THAT THE ESTABLISHMENT OF A RESPONSE WINDOW IS NECESSARY, BUT 30 MINUTES IS TOO SHORT, AND THEREFORE UNREASONABLE**

How about we take a minute and think outside the box. These suggested rules for STRs seem like a knee-jerk reaction and an easy appeasement to the minority of full-time owners. TD was originally advertised as a resort environment, probably targeting second homeowners. However, thinking outside the box:

What if this HOA was nearly 100% owner-occupied and not 17%? All of the nuisances mentioned would still occur, but on a much higher scale. There would be more overcrowding and frequency of use at our amenities, more snow blowers making that lovely noise, more family party celebrations, more traffic, definitely a lot more dogs, more crime, more people in their hot tubs after 10 pm and basically more of everything perceived as either good and bad. If there is a loud, late party going on late at night in a residential area, you call the Police. If someone is smoking on TD grounds during a ban, call





the Police. If TD owners are having trouble with the response time of the Police, the TDBOD or the GM should politely reach out to them to explain homeowners' concerns. Aren't the majority of Truckee homes in the TD area? They should have the same response from the Police as a downtown residence. If this continues to be a problem, maybe TD should have a 24/7 hotline where anyone can call if they are experiencing a nuisance. ... and the cost would be spread out over the full 6,500 TD owners. TD can then decide to call the Police.

Even with the actual or perceived increase in rentals, it would be interesting to see how many days of the year our amenities are actually maxed out. Mid-week seems pretty dead to me whenever we've visited the Trout Creek Ctr, the Lodge, the ski resort, the beach, or anywhere for that matter. It really is a good deal for all-year amenities. Sept, Oct, Nov, early Dec, most of ski season mid-week, April, May and early June are so dead that I'd actually like to see a few more people! If TD was 100% owner occupied, they'd then be out of luck.

It seems like these proposals are looking to be a blatant discrimination against STRs and people are already talking about lawsuits on NextDoor. Is this really where we want TD money to go?

The demand that STR owners aren't allowed to sleep is ridiculous as they would have to be alert 24/7 just in case they get "that" call that some-one's laughing outside and next door, it's loud and, it's 10:01 pm. Landlines have gone the way of the dinosaur and many people now don't have, or want one. How can TD demand that all STRs have one, but full-timers don't have to? (I guess that would be fine if TD pays the monthly bill for a landline that's only used by robocalls, but it'll be ready and waiting for that call from the owner - and that's if the renter picks up. If they don't, what happens? We call the Police.) Let the Police do their job - that's what happens in other towns and residential HOAs.

We are writing to express our strong support for more stringent and enforceable covenants around noise and lights. We don't have any issues regarding people renting out their residence -- our concerns are around the properties that were never intended to be single family residences in the first place.

There is one such property on Skislope Way, above our house, that is a constant party pad. It really operates as a hotel. This operation may be highly profitable for the owner, yet it's at great expense to us neighbors.

- **The biggest issue is the noise.** Often renters party well beyond 10 p.m. - sometimes even past 1 a.m. My son's bedroom is on that side of the house, and the noise can be so loud that we need to close his window which makes it too





uncomfortably hot to sleep in the room. Often, we can hear the noise in his room with the windows shut. It's music, and people yelling and talking (when I can hear the lyrics to a song, it's too loud). Guests have used amplifiers and microphones more often than we can count since we purchased our home in 2010. These are people who have paid a lot of money to rent a huge place--geared for large parties, get-togethers, weddings and corporate events--so they probably feel entitled to do what they want (despite what the owner, who is nowhere nearby, says is "not permitted" on rental websites).

- **Another issue is the light pollution.** The house has a significant amount of outside lights that seem to be on all the time, and occasionally, there will be long tube lights under the eaves that change colors--e.g., purple, red and green. This has no place in a mountain community. We prefer to see the stars.

When we initially bought our home, I spoke with the compliance officer at the time about these issues. Several times. Neighbors also said that they have complained. It's clear that this is a well-known, long-standing issue. The consequences didn't ever appear to be more than a phone call and a slap on the wrist, so frankly, we gave up. We certainly hope that these new covenants will help to curtail the rental party house behavior. Yet, to do so, they need to be:

- **Unambiguous and enforceable**, so Tahoe Donner staff is empowered to take action
- **Punitive** - i.e., scale quickly financially to drive behavior change. Removing benefits to TD amenities is not a consequence.
- And, we need **appropriate staffing by Tahoe Donner** to respond to issues. Relying on the Truckee PD is not a dependable and timely solution. They have better things to do.

We will certainly be much more vigilant at calling the compliance line as well as the Truckee Police moving forward, yet we will still have to deal with the noise until someone shows up to shut it down. For every night the behavior is not curtailed, that's an evening that we are losing sleep or missing out on a quiet mountain evening. Then, it's a lot of work on our part to stay up and film the problem, send in recordings, etc. While we can certainly film from our driveway, or drive up and pound on the front door (if they'd even hear us), that's not how we want to spend our weekends in the mountains.

This is Tahoe Donner, not Miami Beach. It's unfortunate that the place on Skislope was even permitted to be built in the first place, as it's pretty obvious that the original intent was not a single family residence. B&B or hotel? Yes.

We try to be very respectful neighbors and we are asking for the same in return.



Comments on the proposed changes to HOA rules and covenants

- **GENERAL:** It is appropriate and important to protect homeowner rights, comfort, and enjoyment from unreasonable encroachment by renters, other homeowners, and the public. To the extent that the proposed changes improve these values, they are appropriate and important. However, it is also important to protect the rights of property owners to use their properties for income production and making their properties available to friends and family for their pleasure.
- **IMPACT ON PROPERTY VALUES:** It is the HOA's goal and responsibility to protect and enhance individual property values to the extent possible whenever making decisions. Any proposed rules changes must balance value created by protecting the owner experience against value created by enabling owner income generation. Since a large percentage of owners are part time residents (and future buyers will also be part time residents) the generation of rental income is a key aspect of property valuation. The proposed regulations are heavily biased towards the protection of owner experience and are a serious detriment to owner income generation.
- **RESPONSE AND ACTION BURDENS:** Several of the proposed changes greatly increase the burdens imposed on owners who rent their properties by requiring oversight, response times, and curative measures which are difficult or impossible to achieve.
- **FINES:** The proposed fines imposed by the changes also are punitive to the point of impairing owner's ability to rent their properties due to the risks of excessive fines and other costs imposed on them by the HOA. It will be nearly impossible to charge short term renters to recover the fines imposed, since short term rental deposits are seldom larger than \$500. The rapid escalation of fines as proposed could rapidly impair the financial status of an owner, ultimately leading to default on payments and legal problems for the HOA. Other HOAs have fines starting at \$100 or lower.
- **NOISE:** There is no definition of what the HOA will do in response to noise complaints and violations of the proposed rule. Will the fine schedule and response time requirements be the same as those imposed on STRs?
- **STR COMPLAINT RESPONSE:** While prompt resolution of a violation is important, requiring that response occur with 30 minutes is unreasonable. 60 minutes for initial response is more doable for property management companies as well as owners.





- **VERIFICATION OF A COMPLAINT:** Before the HOA imposes a response burden on the homeowner (whether an STR or not), how will the HOA confirm that a violation has occurred? We all know that a significant portion of complaints are invalid or grossly overblown. Imposing a response burden on an owner without verification of the complaint is irresponsible.
- **PARKING:** The existing parking restrictions have been in place for a long time. What change is proposed, if any? Will violations of this rule be subject to the response time requirements – which would be grossly unreasonable?
- **ENFORCEMENT AND HEARINGS:** After a violation has been asserted by the HOA, but before a hearing is held, what happens if the alleged violation occurs again or continues? When and how are repeat violations dealt with? If an owner legitimately believes the violation to have not occurred and would incur significant financial burden to cure the violation, can the owner wait to cure a alleged violation until the hearing is completed? There are multiple complexities associated with the proposed violation procedures and fines.
- **SUSPENSION OF OWNER OR RENTER RIGHTS:** Suspension of rights is a serious action which should be taken only when all other steps to achieve compliance have failed. The HOA could face serious legal challenges if it imposes, for example, a ban on an owner renting his property. The loss in revenue could be tens of thousands of dollars, which the HOA would have to repay if it loses a court case.
- **APPARENT BIAS IN THE PROPOSED CHANGES:** The proposed regulations appear to excessively favor owners who do not rent their properties. While the rights of those owners are important, the rights of owners that rent their properties are also important. Part time owners are in the majority at Tahoe Donner. The board needs to demonstrate its appreciation for and sensitivity to part time residents, particularly those that rent their properties.

We live at _____ Our home was completed in December 2015. For about the first year of our ownership we enjoyed our home and were very pleased with our neighbors. Neither of us are full time residents. Our ownership was a dream come true. My wife and I are in our 70's and looking for a peaceful get away.

Some time ago, our neighbors on our East Side started renting their home for short term rental. This has impacted our quality of life and privacy. Our





property is now used as a play ground, dog walk, and shortcut to the hiking trail behind our house. We have lost our privacy and have been impacted significantly.

One major problem is that the home next door does not have an access to the walking trail along Alder Creek. There is not a door that exits from the back of their house to get to the backyard. Their property line abutting our property is only 5 feet and sloped with crushed rock. The owners, their guest and renters have used our yard or driveway to access the walking trail rather than walking down or up the crushed rock. We are very worried about our liability should there be an accident.

Examples of problems generated from our neighbors property:

- *Smoking on the patio hot tub area.
- *Using our sloped driveway for dogs potty break.
- *Using our driveway for bicycling.
- *Using our driveway and property to walk, bike and snow shoe to access Alder Creek Trail.
- *Using our property as a snow play area.
- *Up to 6 cars in driveway and on occasions blocking our visibility onto Alder Creek Road.
- *Several weeks ago there were 7 cars with one car parked on the roadside shoulder and bike lane and extended into our driveway.
- *Shortly thereafter, the Boy Scouts of America had a *Conference at the house. They asked if they could park cars in our driveway. Scouts honor!
- *On 2 occasions I was urinating in my bathroom and people walked within 4 feet of my window. I threatened to call the police on one and told the others to leave my property.
- *There have been up to 22 people staying at the house at one time. I counted as they took a picture out front.
- *I've had people drive into my driveway after midnight thinking our house was the rental.
- *The activity from the rental has killed native plants and trees on my property.

Hopefully, I have provided some information that demonstrates the severity of having a home next to a rental property. My wife and I need your help. Thank you for any assistance or suggestions you might offer to help us with this problem.





The July 2018 issue of Tahoe Donner News solicited comments on proposed new covenants from Tahoe Donner members. I will greatly appreciate it if the following comments are considered in the Board's deliberations on these new rules.

A. Regarding the new rules on Light Pollution - I find the proposed wording to be somewhat ambiguous and rather confusing in the context of what has been Tahoe Donner's practice in the past. As you may know, the California Building Code (as adopted by the Town of Truckee) requires that ALL exterior lighting be controlled by an on-off switch (manual or electronic), a motion detector, AND a photoelectric cell or astronomical clock. The purpose of the on-off switch is to enable the exterior lights to be turned-off completely, but it also provides a means of controlling the operation of the motion detector. The motion detector is intended to enable the exterior lights to serve an important safety and security role by energizing the lights when motion is sensed, and de-energizing the lights after a set time-out period during which no further motion is detected. The time-out period on most detectors is adjustable over some limited range of minutes. The photoelectric cell or astronomical clock is intended to ensure that exterior lighting is not energized during daylight hours. Exterior lighting installed in accordance with the current Building Code thus has 3 different devices that are capable of turning the lights "off" - the manual switch, the motion detector, and the photoelectric cell or astronomical clock. So, in this new proposed rule, what does statement, " All exterior lights must be turned off between the hours of 10:00PM and 7:00AM, seven days a week that are no longer needed for safety or other outdoor use." actually mean? Does this statement mean that my exterior lights must be completely de-energized by the on-off switch such that the lights will not come on at all between the hours of 10PM and 7AM? That interpretation of the statement would deprive members of the safety and security benefits which exterior lighting is intended to provide. In fact, the Building Code contains exterior lighting requirements on residential units specifically for safety purposes.

As I understand the proposed covenant, the objective is to minimize light pollution in the community. Thus, you may want to re-write this covenant to focus more on controlling exterior lighting so that it allows members to preserve the safety and security benefits of exterior lighting as intended by the Building Code, while also minimizing the time which exterior lighting is actually energized.

The phrase "... that are no longer needed for safety or other outdoor use." in the first sentence of the proposed covenant is also very ambiguous and unenforceable. What is " other outdoor use," and who is actually to determine whether something is no longer needed? Some people might consider strings of orange holiday lights to be needed for





safety purposes, or being used outdoors (an “outdoor use”) as an expression of their faith, personality or emotion. Many people might (and actually do) object to such light pollution yet this would actually comply with the covenant as written.

Another long-standing confusion in the Tahoe Donner covenants is the conflicting and confusing standards for lighting. The standards say that “exterior lights be covered and project downward,” and that “lights shall shine downward and not project beyond the boundaries of the owner’s lot.” In the past, these words have typically been interpreted by the Tahoe Donner staff to mean that the light bulb shall not be visible, and that the light should radiate mostly downward. And, as anyone who understands basic physics understands, any source of light not obstructed by an opaque object will radiate beyond the boundaries of the owner’s lot to some extent - depending on the distance to the boundary line and the power of the light source.

There is a category of lighting known as “Dark Sky” lighting that is intended to limit light pollution in communities, and it is defined by a very specific set of criteria developed by the International Dark-Sky Association. Manufacturers can submit and have light fixtures certified as being compliant with IDSA’s requirements. If Tahoe Donner wants a clear set of standards that limit light pollution, then you may want to consider adopting these criteria. Considering how few lots remain to be developed in this community, these criteria would be of little value unless retroactively applied to all lots.

In my view, the most difficult issue in controlling light pollution in the community is the legacy question. Should Tahoe Donner require all properties to comply with a specific set of criteria? And if so, what are those criteria? Construction of our new home was completed in 2015, and the exterior lighting and controls comply with the Building Code and the exterior fixtures were approved by Tahoe Donner. Yet, when I read the proposed covenant, I could see where someone could now decide that my light fixtures do not comply with the proposed covenant because the amber antique seeded glass does radiate some light horizontally that is, indeed, visible from the road. The exterior lighting fixtures, which blend superbly with the architecture of our house, cost about \$2000. Is it reasonable to require those fixtures to be replaced? I submit it is not.

The area that I believe that Tahoe Donner should focus its efforts is on the devices which control exterior lighting. I believe it is reasonable to require, within a specified and reasonable period of time, that all owners install exterior lighting controls that comply with the current building code. Doing so will greatly diminish the light pollution in the community.





B. Regarding short term rentals - The clause regarding occupancy defines the maximum occupancy are 2 people per bedroom plus four additional people. Defining the maximum occupancy in this way leads to some very high occupancies in small units. For example, the proposed covenant would allow a two bedroom house of 900 square feet to be advertised and occupied by a total of 8 people. I recommend the covenant be re-written to include some criteria based on both bedroom count, gross square footage of conditioned floor area and net square footage of sleeping area in the residence. There are a number of planning standards that can be consulted as guide in this area. I believe we should NOT be using hotel, dormitory or barracks type planning standards for short-term rentals as these standards are NOT consistent with the intended residential nature of our community.

Thanks for listening.

Please accept my strong suggestion that you adopt the STR enforcement proposal to finally begin to address what is obviously a growing issue.

Equally important, I urge you to form a new smaller task force to (representative of TD ownership) to evaluate a potential change to our CC&Rs that would limit short term rentals as many similar communities have already done for obvious reason. It's time we take a closer look at the pros and cons of such a proposal and let the community decide if that's what we want to do to improve the serenity and safety of our community.

I support the proposed revisions to the CCRs relative to noxious behavior.

Thank you for your attention to this matter!

We wanted to submit our comments on the proposed STR changes. As new homeowners who rent out our home responsibility we feel these changes are quite harsh. As you already know the cost of living in CA and the cost of a second home is quite high and the ability to rent our home is what allows us to keep this place. We spent a good deal of time finding a quality property manager and cleaner and take great pains to abide by rules and find great tenants.

We understand that there have been issues in the past however adding on an extra \$150 fee a year (even if you only rent once) on top of the 12% Truckee TOT is simply putting a burden on the vacation rental folks and creating two classes of members. Never mind the burden to people who do live here year round but would like to make a little money on a





once in a while rental. It also adds to the red tape of living in Tahoe Donner, it's not just the \$150 it's filling out the paperwork and the additional tasks involved with it. We already have to submit for a permit for almost everything let's please not add to that.

The other onerous requirement is the 30 min response window, we have a property manager who could respond but we also work in places where we can't get to our phones quickly a response window is too short, 45 min to an hour is more reasonable.

It's imperative to have owners understand the issues with STRs and encourage them to get great property managers. Maybe that's something TD could help with. I'd be happy to be part of a group of STR owners and we could share tips and tricks and in turn this could help self police the bad actors.

I know this was discussed today and apologies for missing the cut off we are hoping we can add some comments still and hope that new comments will be considered.

I have been a Tahoe Donner home owner for the past 6 years. I have some questions and concerns about the new proposed STR Covenants.

- It seems that there is an assumption that all or most issues have been determined to be due to short term renters. Is there data that backs up this assumption? What about long term renters or even owners themselves or their friends who have loud parties late at night? We live next to a house with a long term renter, and there have been a number of occasions where the tenants have had loud guests well past 10 pm. We have also complained several times about a rusted, unused propane tank on the property that is in view of our kitchen window and nothing has been done.
- 80%+ of TD properties are second homes and the majority of those owners rent their properties, so the proposed \$150 STR fee basically amounts to an annual HOA dues increase for the majority of owners. What is this extra money going to be used for? Is TD going to provide any services to owners who have STRs for this fee?
- Most owners live hundreds of miles from TD, so the expectation that they are going to be available on 30 minutes notice 24/7 is just not reasonable. Is the TD HOA association even available 24/7 to receive these complaints? In any other area, if there is a major disturbance on a property, it is the Police that people call. Why is TD different, and why is it different only for STR guests? How will the complainer even know that the cause of the disturbance is a STR?

Thanks for asking for feedback,





As long term non resident owners in Tahoe Donner, we believe the quality of life and amenity benefits favor full time residents. We are only able to enjoy the association amenities for 2-4 weeks during the year while we subsidize locals 365 days per year. Our cost could be as much as ten times higher than theirs, due to unlimited access.

The proposed short term rental rules seem one sided and only further benefit full time residents. The new covenant and amended private property rules are reasonable and agreed upon. Our objection is with some of the overbearing and impractical short term rental rules. Specifically, the \$150 annual fee is excessive for the administrative effort required. A one time initial fee would be more reasonable, with a lesser fee if the information has to be updated. The violation enforcement fines are also problematic. What happens when you have a cranky neighbor, or the disturbance is minor, or quickly shut down upon notification? Agreed, the fine should be on a sliding scale up to \$500, and the criteria for violation severity should be clearly defined. The 30 minute owner response time should be a guideline that considers extenuating circumstances and common sense.

We believe these new rules, if imposed, should apply to all property owners. Permanent residents can equally cause disturbances, exceed parking and occupancy requirements that adversely hinder renters from enjoying a quiet stay in the resort. They should have the right to expect compliance to the same rules and standards. This way, everyone is equal and judged on the same basis.

In addition, it is somewhat short sighted to attempt to limit short term rentals. These guests momentarily contribute to the support of Tahoe Donner through their payment of guest fees, equipment rentals and food and beverage purchases that we don't want to discourage.

As owners in Tahoe Donner for 38 years, we have been both full time residents, and owners who have rented our property both long term and short term. We have always paid not only our dues, but the amenity dues as well, even though we get very little use of the amenities. We again ask that you consider some kind of punch card instead of 4 passes for the amenities.. This would also be much more equitable for non residents.

Thank you for the opportunity to comment on these proposed rules.





I am an owner of a property in TD. As such I believe that all owners, regardless of time spent in the community, want the neighborhood to be quiet, pleasant, and enjoyable, and agree that the existing covenant rules be upheld and if necessary enforced – on ALL TD owners. Parking on the street, noise, and other restrictions are already there. This should not be reserved just for those who provide STR. Why are we limiting usage of a property for rent when full time resident owners do not limit their hosting opportunities at their own houses? Why full time or long term renters are not being held to the same requirements in regards to owner notification (real time contact) and complaint response timeline, enforcement, fines, etc.? Can we limit a full time owner to only have a limited number of their own guests at their house? Should they also not be able to host their kids and grandkids in excess of 2 per bedroom + 4?

If one of the main issues are at the recreational facilities overcrowding – why not address these directly? Restrict guests' usage, increase guests' fees, etc. – again – not impacting only STR owners and guests but the entire community.

I think that TD should also consider the financial impact to the entire association and the city. Not only the impact on addition business that these short term guests are bringing, but also the property value which will plummet as soon as some/many part-time resident owners ditch their property as they cannot compete on renting their houses with other nearby neighborhoods and as others opt to purchase elsewhere.

In an email correspondence I had with an association employee and with the task force I was assured that enforcement and fines will be equally applied throughout the community. If so, why do we need to add to our rules specific STR enforcement and fines schedule rules? Moreover, these rules state that they apply when a “potential violation of these STR Rules or any other Association Rules as it relates to a STR”. What about violation of association rules not related to STR? The perpetrator gets a “get out of jail free” card? or are different enforcement and fines apply on them? Clear discrimination!

All these arguments are not even touching on the hardship of actually enforcing these new restrictions, many of which will require invading property privacy. I am sure you have also take in consideration the potential for legal action against the association in cases of discriminatory and selective rule enforcement which will not serve our community well.

In my opening I stated that I am all in favor of necessary restrictions, enforcement and if needed fines to uphold our covenant rules. Again – these should be written to ensure all residents and guests of TD are complying with them, and are all treated equally! I feel this is a discriminatory overreach by the association.





Here are specific comments/suggestions to the proposed text in red:

PROPOSED NEW COVENANTS RULES ~~AND FINE SCHEDULE RECOMMENDATIONS~~ CONCERNING SHORT-TERM RENTALS:

These Rules will be known as and referred as under a new Covenants Rules section Short-Term Rentals.

SHORT-TERM RENTALS

Short-term rentals (“STRs”) are residential properties offered for rent or lease for one or more terms of less than thirty-one (31) continuous nights.

SHORT-TERM RENTAL REGISTRATION

All Owners of STRs within the Tahoe Donner Association must register with the TDA administrative office to operate a short-term rental property within the Tahoe Donner Community. An annual registration fee of \$150 is required. Disclosure of total number of bedrooms (as historically disclosed in rental advertisement) is required. An Owner must register within 30 days of commencing short-term renting or within 30 days of the effective date of these STR Rules. To register, an Owner must provide evidence of a current compliance certificate issued under the Town of Truckee Transient Occupancy Tax program.

~~The following 5 sections should be proposed as general covenant rules and be removed from the STR specific rules:~~

REAL-TIME CONTACT – should either apply to all residents or not at all

~~As a condition of registration, the~~ Owner must provide, among other details to be specified in the Registration, contact information for a live person, having authority to address the issue at the property, who is available to respond 24 hours a day/7days a week within 30 minutes of being notified of any complaint of a violation(s) of TDA rules (“Contact Person”).

COMPLAINT RESPONSE– should either apply to all residents or not at all

Within 30 minutes of notice by TDA regarding a complaint at ~~a property an STR~~, the Contact Person must respond back to TDA. Within 60 minutes of contact by TDA regarding a complaint, the Contact Person must respond at the property in person or by telephone to the property and shall attempt to cure the cause for the complaint.

COMPLIANCE + NOTIFICATION– should either apply to all residents or not at all

All Owners, renters, and vacation renters must comply with all provisions in the TDA Governing Documents and rules including provisions which prohibit "nuisance" behavior





and set forth rules concerning vehicles, trailers, motorhomes, camping, parking and use of Common Area. (C&R Article VIII)

Owners must provide a list of applicable Tahoe Donner rules, made available by TDA and posted on www.tahoedonner.com, to renters at the time of their booking and advise them of the obligation to follow the rules. A copy of the rules should be available in the residence. Owners are required to provide renters emergency evacuation information and to have this information prominently posted in the home. It is required the Owner obtain an acknowledgement from the renter that they have reviewed the rules and agree to comply with them. (C&R Article II, Section 3(a)) **This one should stay**

OCCUPANCY– **should either apply to all residents or not at all**

~~When functioning as an STR, no~~ home may be (i) advertised to house or (ii) occupied by more than two (2) people per bedroom plus four (4) additional people total TDA may take disciplinary action on any owner who knowingly supplies false information.

PARKING– **should either apply to all residents or not at all**

The number of vehicles shall not exceed the number set forth in the Governing Documents which limits parking to garages and in the driveway of the property. There is no parking on unpaved areas of Lots;

SHORT-TERM RENTAL VIOLATION ENFORCEMENT AND FINE SCHEDULE – **should either apply to all residents or not at all**

In the event TDA determines that a potential violation of ~~these STR Rules or~~ any ~~other~~ Association Rules ~~as it relates to a STR~~, has occurred, the owner will receive a Notice of Hearing as provided in the Rules Enforcement Procedures. In such event if a violation is found, TDA may impose one or more of the following disciplines:

- a. For a first violation impose a fine of up to five hundred dollars (\$500) and take appropriate action to collect the fine(s);
- b. For each subsequent violation impose a fine which increase by five hundred dollars (\$500) per occurrence and take appropriate action to collect the fine(s), i.e. 2nd violation one thousand dollars (\$1000), 3rd Violation one thousand five hundred dollars \$1500, etc. all occurring within a one-year period from the first hearing;





c. Fines may be assessed, per incident, on a daily, weekly, or monthly basis according to the nature and severity of the infraction and at the discretion of the Covenants Committee;

d. Suspend the right of the Owner or STR renter to use common areas or common facilities (except for ingress and egress to the property);

e. Impose a special individual assessment against the Owner for costs incurred by TDA (including sums paid to contractors, attorneys and/or others) to repair damage and/or cure a violation of these STR Rules and to collect any unpaid fines;

~~f. The Board of Directors reserves the right and is empowered to limit an Owner's right to rent his/her property as an STR, including but not limited to, limiting the number of nights/days a property may be rented, leased or used by other than the Owner within a specified time period, including temporarily suspending the right to rent, lease or allow use by others than the Owner, based on the particular circumstances. TDA will notify all TDA Owners that these Rules are in effect. The notice will include a recommendation that each Owner owning a rental property within the Tahoe Donner Association should include with terms of their STR rental agreement that any fines may be passed along to the renter. It will also recommend that each STR rental agreement should include a deposit to cover any possible fines that may arise. Additionally, the Association recommends a hardline telephone is installed at the property for safety purposes and to ensure compliance with above stated response rule. This is an outrageous overreach by the TD association and BOD and may lead to a legal battle which will not benefit the association or its members.~~

Our family has owned a house on Alder Creek Road for about 5 years. When not using the house ourselves we occasionally rent it out. We require guests to follow Tahoe Donner rules and have not had any issues as far as we know. Our guests know they will receive bad ratings or lose their security deposit if they violate rules. Because of this and for other reasons, I do not believe all of the new covenants and rules are needed. Below is our feedback.

- **Allow greater occupancy** - We have a large bunk room that has housed Boy Scout, athletic and religious youth groups. The proposed limits on occupancy would require these groups to pay for more housing and ultimately result in less youth enjoying Tahoe. Suggestion: allow occupancy up to the number of beds as opposed to using the number bedrooms or do not count kids.
- **Do not require registration with Town of Truckee Transient Occupancy Tax** - Truckee has an exception to the TOT for "any private single family-dwelling rented





- only incidentally to permanent occupancy.” Suggestion: if Truckee does not require registration Tahoe Donner should not require it. Alternatively, Tahoe Donner could make an identical exception and not require registration for such incidental renting.
- **The annual registration fee is excessive** - Is such a large fee really needed every year? Suggestion: a one time \$150 fee.
 - **The fine schedule is excessive** - a smaller fine schedule will still be an effective deterrent. Suggestion: reduce fines in half to \$250, \$500, and \$750.

We love Tahoe Donner. Our 4 year old learned to snowboard at the downhill ski area and our 2 year old will start this year. Allowing us to rent our house helps us afford increasing costs for the annual assessment and maintenance.

Thank you for accepting our feedback and for helping to keep Tahoe Donner a great place to visit and reside.

Am delighted with the proposed regulations regarding STR's. I suspect enforcement will be a challenge, but this is a step in the right direction. We are a vacation home community not a rental investment resort.

My wife and I have owned a property in TD since 1990 and have noted with some dismay the increasing number of non-owners who are using our amenities, often causing overcrowding and limiting enjoyment by property owners.

Please continue your efforts on this!

Hello, we'd like to provide feedback on the proposed covenants on STR rules. We oppose many of the new STR rules, for the reasons listed below:

- The rules apply only to STRs and not to full-time resident owners, to guests of owners, to ski leases, or to other leases over 30 days.
- The fines for STRs are 250% of the fines for non-STRs. Why should covenant violations by STRs be penalized 2.5 times the amount as the same violations for non-STRs?
- The rules require a STR owner or agent reply to a complaint within 30 minutes to TDA and within 60 minutes to the house (24 hours per day, seven days per week). Failure to reply in the time limit is subject to the fines, starting at up to \$500. This time period seems unreasonable, even for those of us with very responsive property managers. Plus, if there is





a time limit to reply for STRs why shouldn't there also be one for full-time owners and long-term leases, etc.?

- The large fines (up to \$500 for a first violation, \$1,000 for a 2nd violation, \$1,500 for 3rd violation, etc.) are excessive. To protect themselves STR owners will need to increase their security deposits, which will make Tahoe Donner vacation rentals less competitive than properties outside of Tahoe Donner.

- What diligence processes are in place to validate whether a complaint is rational? Some neighbors interpret situations as infractions, when in fact they are not.

Thank you for your consideration,

This email is to oppose, in part, the modifications to the Short-Term Rental Rules for Tahoe Donner under consideration by the Board.

The STR Task Force has been diligently addressing activities that interfere with the quiet enjoyment of living in Tahoe Donner, many of which are common sense responsibilities, with which responsible owners already comply. Seems that the crux of the problem are the "frat houses" where owners violate reasonable occupancy guidelines so that the rental is affordable to a large, immature party crowd.

I would appreciate if someone could specify the scope of the problem:

- 1) What percent of residences at Tahoe Donner are used for STR or for entertaining extended family for holidays or vacations?
- 2) How many adverse incidents are reported per year?
- 3) Extent of the disturbances – i.e. are the police called, is there injury or property damage involved?
- 4) Are children being supervised, or allowed to run amok on the golf course or swimming pools/spas, etc.?
- 5) Response time by police, or by TDA after someone calls 530-414-8166?
- 6) Costs to TDA in personnel time, damage to our facilities, etc.?
- 7) Are the incidents tied to a few specific properties/owners who are repeat offenders?
- 8) How are the amenity cards being misused? People walking into the facilities undetected?

With the currently proposed modifications and fine schedule, the attention appears to be drifting into the range of punitively targeting ALL owners who provide STRs with additional burdens, not just the bad actors. Owners who are full time residents appear to be exempted from the





annual “registration” and fees, though we are likely all aware of some who have and do violate the rules.

1) An annual \$150 “registration” fee to TDA is unnecessary and unfairly applied.

On top of their mortgages and maintenance costs, owners who rent their property already pay all HOA and recreation fees, property taxes and the Transient Occupancy Tax + Truckee Tourism Business Improvement District Tax totaling 12% for each rental. These taxes are “...General Fund revenues and used for general business of the Town including road maintenance, snow removal, trail operation & maintenance, police services and other Town business.”

Are the taxpayers in Tahoe Donner not entitled to these services? Do our constantly increasing HOA fees not cover the expenditures for enforcement of existing rules? Again, are there repeat offenders creating nuisance and expense for the responsible owners? These should be the targets.

Add in the costs for a “management company,” be it Vacasa, Air BnB, VRBO or other. There is a substantial cost for their services, which they advertise as providing insurance coverage against renters who damage property. Their cost is upfront, but whether any damage costs will be covered – another issue.

2) The need for “disclosure” of the number of bedrooms is duplicative and therefore unnecessary. TDA should have on record the specs and permits for all the homes built in Tahoe Donner. The need to address parking and over-crowding issues can be dealt with more directly by ticketing any vehicles parked illegally – whether they are there for overnight stay or just for a party or dinner. Over-crowding is often obvious by the degree of nuisance activity – noise, late hours, trash and parking. I cannot see myself calling in a complaint by watching to see if 16 people enter a 3-bedroom house. Notably, I forgave my neighbor who used our trash shed for his garbage, which caused a bear break in! This was promptly taken care of and mitigated between us without the need to call TDA.

3) Last point – if the STR Task Force / Board could illustrate how their complaint response process would work in the acute situation with the expectation of a 30-60 minute owner response time? If the owner and renters are responsible folks, great. But those folks are not the problem. Some full-time Donner residents rent their homes short-term on holidays when they are on vacation or visiting family themselves.





Sure, they can call the renters, but they won't be able to show up within 60 minutes, handle a drunken crowd safely and would not have hired a rental management company who has security to show up for them. Maybe TD would contract with a private security company where owner/renters would be on the financial hook IF they need to be called out.

My bottom line concern is, if you front load the owner with fees and taxes on top of their other expenses, the only people they can rent to is a hoard of low-rent seeking party animals who will be guaranteed to violate the rules and be even harder to mitigate than the current problems. The same applies to locals who expect low-cost long term rentals from absentee homeowners who care so little about their properties that they turn a blind eye to discourteous or illegal activity as long as the rent is paid.

Making STRs unaffordable will make TD homes unaffordable, property values will fall, local business will suffer, bad behavior will continue....

I would prefer that we all think of incentives for responsible owners to afford and enjoy Tahoe Donner and the community.

I would participate in a workshop on best practices for STR owners if one could be held at the annual members meeting.

Thank you all for your service and thoughtful consideration of all member input.

I am in full support of the proposed Private Property and Short Term Rental rules. After attending the last board meeting it was apparent many STR owners had some misconceptions and concerns about the proposed rules. One point they made has some merit. Many STR owners felt they were being singled out as a separate class of owner to be treated differently than a non-STR owner. Any owner **temporarily** renting their property or allowing someone to use their property should come under the same set of rules and fines as a registered STR owner. One could imagine a non-registered owner allowing a friend or relative to use their property free of charge for a few days, week, or month. Under those circumstances the rules and fines should be the same as for an STR property.

I think this is the only chance Tahoe Donner will have to assert the kind of community most of we members want to see in the future, not a haven for investor landlords but a place where families and landlords can coexist under a set of **fair-minded rules and limitations** that respect both the rights of landlords and neighboring families.





Please approve the Covenants Private Property and Short Term Rental Rules now. Once in place minor modifications can be made to address any issues.

I appreciate the effort to reduce the impact of STRs and think the proposed rules are good and will prove useful.

I have some comments about STRs in general. I have owned and lived full time in Tahoe Donner for almost 20 years. The recent increase in STRs have impacted my enjoyment and the peacefulness of my TD condo. Based on my personal experience, most rentals in TD have gone from what used to be long-term rentals or seasonal ski leases to stays of less than 30 days. And, based on my experience, most of the STR are now 2-3 days (weekend) and sometimes as long as a week. Again, this is just my personal experience with my next door neighbor renting their place on AirBnB: during winter and summer, there are new/different renters there regularly on weekends/or for a week, all summer and all winter long. While most of the renters are nice enough, there has been an ongoing issue with inappropriate parking (which I have to deal with because I am here all the time). The owners are responsive to taking care of the issues. However, I am tired of having to deal with it (i.e., contact the owners). But, what I really don't like is seeing entirely new, unknown people in the parking lot and around the condos every weekend. In short, I really dislike short term rentals. It feels like there is a motel next door. It feels like a different Tahoe Donner from when I first moved here in 1999, and the change is not for the better.

While I am probably in the minority (since as a full-time TD resident, I am in the minority), I would like to see a policy implemented that keeps a minimum stay of 30 days for rentals in Tahoe Donner.

Thank you for taking my comments.

I received notice of the proposed changes concerning short-term rentals (STR) within the Tahoe Donner community.

Being a home owner in the community and using our place as a second vacation home (with infrequent STR use = <14 days/yr), I would like to state that **I am against the proposed rules.**

Here are the reasons that I am against the proposed rules:

- The world is changing, and there is an evolution toward a shared economy. While this is uncomfortable to many older generations, this is becoming a regular practice





by the Gen Y and Gen X generations. It involves both pro's and con's, like any disruption in the market, and Tahoe Donner must evolve to embrace where the future is going.

- Since our board is not fairly represented across different age groups, there is a severe disconnect in where the future of second vacation home ownership is evolving to. I watched and was active during our last board election, and was disappointed that modern viewpoints were not included in the discussion or candidacy. There seems to be a heavy bias toward the perception that short-term renters are not responsible, are unresponsive, and do not maintain decorum while in the community. My experience as an infrequent STR landlord has been the exact opposite, with websites such as AirBNB doing a great job to vet quality individuals/families through proper verification, rules, and feedback. The transactions are also covered under two different insurance policies to ensure liability and damages are protected to a substantial extent (\$1Mil each). The bottom line, these people are actually better renters than if you were to advertise in the newspaper, Craigslist, or other third-rate service that has existed for decades.
- With this evolution in the market, this change would make Tahoe Donner less desirable and less competitive of a community when seeking new buyers from younger generations.
- It would also introduce fewer people to the community. I am a case in point, I was familiar with the area but used AirBNB three times to experience the area to a greater level with my family of 4. The first two times were to vacation with my family in summer and winter, the third time was to overnight there to shop for a cabin over two days with a local realtor.
- This lessening of demand due to restrictions could force the community to become heavily biased toward older generations (a retirement community) rather than a diverse multi-generational recreational community.
- We likely would see less competition to purchase homes in the community, due to the added friction and cost to help subsidize housing costs via STR, thus reducing home prices in the area. It would become a less desirable investment overall.
- An additional fee of \$150 does not provide the owners any additional value or services and only serves to make the cost of vacation home ownership even higher. Especially when considering very infrequent STR use as in our case.
- Thirty minute owner response windows are unreasonable. If there is an issue of illegality or non-compliance for users of the home, there should be no difference between short-term renters, long-term renters, or homeowners and this is a job for the local sheriff's department or HOA enforcement as it stands today. It should be dealt with directly and will provide a quicker response time to resolve the issue rather than chasing non-local owners around to not solve the problem quickly and create negativity through excessive fines.





- Additional oversight or fines is only creating duplication or inefficient processes that are unneeded and undesirable.

I think the board needs to take this back to the drawing board and have proper representation across the age groups to come up with a better solution. I would be happy to volunteer as a member of Generation X.

Because of the above, my family of 4 is seriously concerned that our board is not maintaining pace with competing communities. If this continues and the community does not keep up with how vacation ownership is evolving, we will most certainly be selling to look elsewhere.

I strongly oppose passage of the proposed STR rules and covenants. As an owner in TD who loves my home, and has spent a lot of time and money fixing it up and making it beautiful to both improve it's value and the value of the neighborhood, I feel that my investment in TD is not being respected or honored with these new covenants and rules.

I fall in with the large majority of TD owners (80+%) in that I am part time/off hill. My husband and I use our home when we can and enjoy the house, TD amenities, and the surrounding areas immensely. When we are unable to use our property, we put it up for short-term rental to help offset costs.

Like many, I **very purposely bought in Tahoe Donner exactly because there was great short-term rental possibility.** I looked in many areas all around Tahoe, and was drawn specifically to TD for the amenities and higher home values and resell values due to rental potential. My realtor was the first to highlight this, and it was clear to me the longer and more extensively I looked at properties all around Tahoe.

Putting these rules in place will degrade the value of property in Tahoe Donner. I can honestly say that I would not have bought in the area had these rules and the animosity towards the majority of home owners who are part time had been in place when I was searching.

It is an injustice to the majority of owners for the minority to have an outsized impact on our ability to maximize utility of our homes. We pay the same taxes and association fees that on hill owners do. On top of that, to be told what I can do with my own home in terms of potential number of nights I can rent it, amenities my guests can or cannot use, and extra fees I have to pay simply to maximize the potential of my home is not just absurd, but should be considered illegal to impose in my opinion.





Requiring 24/7 contact of owners within a 30 min window is insane. Many part time owners do not live in the area. I personally am often traveling for work, and may be in different time zones and unable to answer a call. Penalizing me for not being on call 24/7 with heavy fines is unjust.

Having to fight for my right as a home owner in Tahoe Donner just to be able to use my home the way I wish, and in line with the expectations I had when purchasing my home, is not something I should have to do. I urge you not to pass these covenants which are in favor of a small minority of home owners and detrimental to the majority of homeowners within Tahoe Donner.

Dear Board Members,

The proposed Private Property Rules address three concerns: excessive noise at night, exterior lights shining at night, and certain large rental gatherings. Although these are important concerns, there are existing TDA and Town of Truckee rules that cover each of the underlying issues. Rather than adopting broad, restrictive new rules that materially alter the existing rights of all TDA members, including those complying with the existing rules, I encourage you to address the underlying issues through (1) increased education of owners and guests and (2) increased enforcement of existing rules, particularly against those homes and owners that are truly problematic.

In the last year, the TDA Board has taken steps on both the education and enforcement fronts, including: 1) development of a new summary of Tahoe Donner Association ("TDA") and Town of Truckee rules that apply in Tahoe Donner and 2) streamlined and expanded enforcement measures. These recent education and enforcement efforts should be applauded, though more time is needed for the benefits to be fully realized. Further, additional steps could be taken regarding both education and enforcement, including measures such as the following:

- Mail summary of TDA and Town rules to members in a form designed for posting in homes
- Develop and provide sample rental agreement language to members
- Explore methods for simpler and faster enforcement of covenants and rules
- Explore direct citation of owners, renters, and other occupants for violations of Town ordinances, including those related to noise and light





- Create joint working group consisting of representatives from the Covenants Committee, the Architectural Standards Committee, and the STR Task Force to implement better education and enforcement measures
- Create voluntary STR owner/manager group to share ideas and develop “best practices” for STR operators, including methods for improved tenant screening, educating tenants regarding applicable rules, and increasing tenant compliance with rules

In addition to my points above, please consider the more detailed points below:

I. 45-Day Notice Should be Corrected and Re-Published

The 45-day notice regarding the proposed new and amended private property rules should be revised because there are two significant errors that make the notice misleading. In addition, the 45-day notice should be re-published by directly mailing and emailing the notice to all members, without having the notice buried towards the end of what is widely considered a marketing magazine.

A. 45-Day Notice is Misleading Due to Two Material Errors

- (1) Notice Refers to STR Rules rather than to Private Property Rules. The introductory paragraph of the 45-day notice for the proposed private property rules refers to proposed new “Covenants Short-Term Rental rules, violation enforcement and fine schedule” rather than to proposed new and amended private property rules. It is misleading to mention the STR rules rather than the private property rules in the introductory paragraph of the 45-day notice. Some people, thinking the proposed rule changes apply only to STRs, might have skipped over the proposed rules entirely or misunderstood the breadth of their application.
- (2) Proposed Amendment to Rule in Black Text Rather Than in Red Text. The 45-day notice regarding the amendment of the Business Activity Rule states that “black text indicates existing rule; red text indicates proposed amendment.” Though the entire main paragraph of the Business Activity rule is written in black text (indicating existing language), the words “including renting or leasing” have been added in the first sentence and should be printed in red text (indicating a proposed amendment). The addition of those four words





fundamentally changes the meaning of the paragraph because the TDA covenants specifically provide that renting a home is not a business activity prohibited by the covenants, even with increased parking and traffic, excessive noise, or other items enumerated in the business activity rule.

B. 45-Day Notice Was Not Adequately Published to Members

The TDA covenants require that proposed association rules be “published to the members”. Though no definition of “published to” is provided in the covenants, simply printing the 45-day notice in the back pages of the Tahoe Donner News, which many people view as a marketing magazine, does not seem to be an adequate, fair, or reasonable method to widely inform members of proposed rules that will materially impact their rights and obligations. To illustrate this point, consider that I personally wrote to more than 150 VRBO listings regarding the proposed rule changes and the majority of the owners that replied weren’t aware of the proposed new rules.

A summary of and link to the 45-Day notice was emailed out by the TDA general manager and posted on Nextdoor fifteen days before the August 24 Board meeting. Fifteen days is always a short amount of time to review, contemplate, and comment on a proposal, but this is especially true at this time of year when many people are on end-of-summer vacations or busy getting ready for the upcoming school year.

Due to the material errors in the 45-day notice, and considering the importance of the proposed rule changes, the 45-day notice should be corrected and then “published to the members” through direct mail and email rather than simply through printing in the Tahoe Donner News.

II. Board Adoption of Proposed Rules Would Violate TDA Covenants; Member Vote Required

The TDA covenants allow the Board to adopt association rules regarding certain subject matters, including common areas of concern. However, the association rules shall not be inconsistent with or materially alter any provision of the TDA governing documents or the rights, preferences, and privileges of members thereunder.

Under the TDA Covenants, the proposed noise, light pollution, and business activity rules are not allowed to be adopted by the Board as “Association Rules” because (1) all three rules materially alter the rights of TDA members under the TDA covenants and (2) the proposed





amendment to the business activity rule is inconsistent with the TDA covenants. Adoption of the proposed rules would require amendment of the TDA Covenants or Association Rules with a vote of the TDA members rather than simply a vote of the TDA Board.

III. Proposed Noise Rule is Ambiguous, With Multiple Potential Meanings

As written, the proposed noise rule is ambiguous both to owners and to those tasked with enforcement. The rule states in part that “the hours between 10:00 p.m. and 7:00 a.m., seven days a week are considered quiet hours, during which noise shall be minimized in order that it not be an unreasonable annoyance or nuisance to neighbors.” What does this mean?

1. One reading of the rule is that noise must be minimized during quiet hours, with the end of the sentence being a statement of the reason for the rule rather than part of the standard that owners will be held to.
2. Another reading of the rule is that noise must be minimized, but only to a level that is not an unreasonable annoyance or nuisance to neighbors.

Although I’m a member of the STR Task Force, and a lawyer in a prior career, I don’t know which of these readings is intended, or if perhaps some other meaning is intended. The Board should be clear on which meaning they intend and the rule should be re-written to reflect the intended meaning.

If the intended meaning of the rule is the first interpretation (i.e., noise must be minimized), then perhaps the rule should be truncated to simply say that during quiet hours noise shall be minimized. On the other hand, if the intended meaning of the rule is the second interpretation, then perhaps the rule should not include the word “minimized”, but instead simply say that during quiet hours noise should not be an unreasonable annoyance or nuisance to neighbors.

A. If Noise Must be Minimized, then the Proposed Noise Rule Violates TDA Covenants

If the proposed noise rule requires that noise must be “minimized”, which means “to reduce to the smallest possible amount or degree”, then the proposed rule is materially stricter than any existing TDA covenant. The proposed rule would violate the TDA covenants, which provide that association rules shall not materially alter the rights of the members thereunder. Adoption of the proposed noise rule is possible, but through an amendment of the covenants rather than adoption of an association rule.





As an aside, I note that there is no existing TDA covenant or association rule that requires noise to be minimized. There is language in a handout in the Northwoods Clubhouse and on the TDA website labeled "Tahoe Donner Covenants", which presumably is meant to summarize certain key covenants. It reads in part that "as a courtesy, minimize noise and turn off exterior lights after 10 p.m." However, that language doesn't match anything I've found in the TDA Covenants, the Covenants Rules, or the Architectural Standards Rules.

B. If Noise Must Be Reduced to a Level That is Not An Unreasonable Annoyance or Nuisance, then it Just States One Example of an Existing, Ambiguous TDA Covenant

If the intended meaning of the proposed noise rule is that noise must be reduced to a level that is not an unreasonable annoyance or nuisance to neighbors, then isn't this just a single example of the existing prohibition against all behavior that is an unreasonable annoyance or nuisance to neighbors? If yes, what is achieved by the proposed rule? Given the ambiguity cited above, aren't we creating more potential problems if (1) some members think the new rule requires that noise literally be minimized while (2) other members think the new rule means that noise should be reduced to a level that is not an unreasonable annoyance or nuisance to neighbors?

C. Objective Noise Test; Town of Truckee Noise Rules; Accommodations for Weekends and Holidays

Regardless of which interpretation of the noise rule is intended, an objective test would be better than the proposed subjective and ambiguous rule. An objective test (such as decibels at the property line) would be easier to implement for both owners and enforcers. In fact, rather than any new TDA rule there could instead be an increased emphasis on education and enforcement of existing Town of Truckee noise rules, which include allowable decibel levels and reduced noise limits between 10 p.m. and 7 a.m. In addition, perhaps immediate and direct citations could be given to owners, renters, or other guests for violations of Town noise rules.

Under any rule interpretation, the noise rule should also accommodate for weekends and holidays. A 10 p.m. quiet time seems too early for weekends and holidays in a resort community where 85% of the owners don't live in Tahoe Donner but instead visit primarily on weekend and holidays for fun with family and friends.

IV. Proposed Light Pollution Rule Applies New Restrictions, Is Unnecessary, and Ambiguous





The Frequently Asked Questions handout states the following with respect to the proposed light pollution rule:

“There have been many situations where bright, outdoor spotlights are left on 24/7, even in the winter on back decks that no one is using, and these unnecessarily shine into neighbors’ homes and bedrooms, create light pollution and disturb neighbors. This rule advises everyone of the need to avoid unnecessary exterior lighting.”

A. The Light Pollution Rule is a New, More Restrictive Light Standard

The FAQ seems to innocuously imply that the proposed light pollution rule “advises” everyone of the need to avoid unnecessary exterior lighting.” However, the proposed rule is not just advisory: it mandates that everyone comply with a new, more restrictive light standard even if their existing exterior lights and pattern of use are not an unreasonable annoyance or nuisance and comply with existing TDA and Town of Truckee rules. Depending on how the rule is interpreted and applied, the proposed light pollution rule may materially alter the rights of TDA members under the TDA covenants, thus requiring a member vote.

B. The Light Pollution Rule is Not Necessary

The FAQ also seems to imply that the proposed new light rule is necessary to avoid the types of situations described in the FAQ. However, existing TDA rules already (1) govern such situations and (2) provide remedies for violations and problem situations. For example, consider the following excerpts from the existing Architectural Standards Rules:

- “Exterior lights shall be shielded or hooded, and must be located and constructed so that they do not create a nuisance or hazard.”
- “The lighting footprint must project downward and cannot project beyond the property boundaries.”
- “A canopy-type floodlight cover, of an approved color, that shields the light source is acceptable provided the light is directed straight down.”
- “If lights are to be on the sides or rear of a structure, motion detectors must be used. The automatic light durational setting must not exceed 5 minutes and the sensitivity to movement must be properly adjusted so as not to create an annoyance.”
- “At any time, the ASC may evaluate unduly bright lights that create a nuisance to adjacent Owners or about which complaints have been received. Safety considerations will be balanced against aesthetic/nuisance considerations in applying these restrictions.”





- “All exterior light sources must be shielded and not regarded as offensive to surrounding properties. When exterior lighting is determined to be objectionable, the ASC will review the condition on a case-by-case basis and determine appropriate corrective measures, if any; e.g., reducing wattage or replacing fixtures.”

We don't need new light pollution rules which materially alter the rights of members; we need greater education and enforcement of the existing rules.

C. The Light Pollution Rule is Vague; Objective Test Would be Better

The proposed Light Pollution rule is vague in several respects. For example, the rule provides that lights must be turned off at night “that are no longer needed for safety or other outdoor use”, but doesn't include any guidance as to what lights can be considered needed for safety or other outdoor use. In addition, the rule doesn't indicate who will determine whether a light is needed or how they will make that determination. Will the determination be made by the owner or occupant of the home, based on their subjective belief of what is “needed”, or will the determination be made by the Architectural Standards Committee, the Covenants Committee, or some other third party? The rule states that “light fixture standards shall be enforced by the Architectural Standards Committee”, but does this include the interpretation of what is needed for safety or other outdoor use or simply the physical light fixture standards?

The rule also provides that exterior lights that are used at night shall “not project beyond the boundaries of the Owner's Lot”. This language is slightly different than an existing Architectural Standards Rule that provides that “the lighting footprint ... cannot project beyond the property boundaries.” (Emphasis added.) Is the new rule the same as the existing rule, or was the removal of the word “footprint” intentional, perhaps intended to create a more restrictive rule where neither the lighting footprint or any light at all can project beyond the property boundaries? If the more restrictive rule is intended, what exactly does it mean? Does it literally mean no light at all can project beyond the boundaries, even at a very low level?

The proposed light pollution rule would benefit from an objective test rather than a subjective test, such as lumens measured at the property line. This would make the rule easier to interpret, easier to understand, and easier to comply with and to enforce.

V. Proposed Business Activity Amendments Violate TDA Covenants, Are Unnecessary, and Are Ambiguous; Increase Education/Enforcement of Existing Rules





The proposed amendments to the Business Activity rule violate the TDA covenants, are unnecessary, and are ambiguous in various respects. Rather than adopt a new, more restrictive rule that materially limits the rights of members, I encourage the Board to focus on education and enforcement of existing rules.

A. Business Activity Amendments Violate TDA Covenants; Requires Member Vote

The TDA covenants authorize the Board to adopt association rules regarding certain subjects. However, association rules shall not be inconsistent with or materially alter any provision of the TDA governing documents or the rights, preferences, and privileges of members thereunder. In this case, the proposed amendments to the Business Activity rule (1) are inconsistent with the TDA covenants and (2) materially alter the rights of TDA members under the TDA covenants. Therefore, adoption of the proposed amendments would require amendment of the TDA Covenants (requiring a member vote) rather than an amendment of the association rules (requiring a Board vote).

Under the TDA covenants, renting a home, whether long-term or short-term, is not a business activity prohibited by the covenants, even if the home is rented to someone for a wedding, corporate event, conference, or other similar gathering. In fact, renting a home is specifically contemplated, allowed, and protected under the covenants. See Article VIII, Section 1(f). The proposed amendment to the Business Activity rule would prohibit renting or leasing if such activity involves (among other things) increased traffic or parking or excessive noise (neither of which phrases are defined) or rental for certain enumerated purposes (generally involving larger gatherings). As such, the proposed amendment is inconsistent with current TDA covenants and materially alters the rights of TDA members under the TDA covenants.

Section 1(f) of Article VIII of the TDA Covenants reads in part as follows: “(f) Business Activities. Tahoe Donner is a multi-use common interest development with areas zoned for business and commercial activities, and no business or commercial activities of any kind whatsoever shall be conducted in any Residence, Condominium, garage or out building or any other portion of any Residential or Multiple Family Residential Lot Furthermore, no restrictions contained in this subparagraph (f) shall be construed in such a manner so as to prohibit any Owner from: ... (iv) leasing or renting his or her Residence or Condominium in accordance with Article II, section 3, hereof The uses described in (i) through (v), above, are expressly declared to be customarily incidental to the principal residential use of the Residence or Condominium and not in violation of this section.”





Article II, Section 3, which is referenced above, reads in part as follows: “Section 3. Delegation of Use. (a) Delegation of Use and Leasing of Separate Interests, Generally. Any Owner may delegate, in accordance with and subject to the Governing Documents, the Owner's rights in and to the use and enjoyment of the Common Area and Common Facilities to the members of the Owner's family or the Owner's tenants, lessees or contract purchasers who reside in the Owner's Residence or Condominium.” “With the exception of vacation and seasonal rentals, any rental or lease of a Residence or Condominium may only be to a single family for Single Family Residential Use. ... ”

B. Business Activity Amendments Are Unnecessary

The amendments to the Business Activity rules are designed to prevent homes from being rented for weddings, corporate events, conferences, and other large gatherings, largely due to complaints regarding excessive noise, light pollution, garbage spills, traffic and parking problems, and amenity overcrowding. These are important concerns, but there are already rules in place with respect to every underlying issue. The new prohibitions are too broad – why are rentals to particular groups prohibited if the activity doesn't generate excessive noise, doesn't involve light beyond permitted levels, garbage is put away, parking and traffic rules are complied with, amenity pass limits are followed, and all other rules are respected and followed?

Rather than adopting a broad blanket prohibition on all home rentals for weddings, receptions, corporate events, conferences, and other similar gatherings, TDA should instead focus on enforcing existing rules regarding the underlying areas of concern. Property owners that are complying with the applicable rules should not be barred from renting a home for any specific purpose, including for a small wedding, reception, or corporate event. On the other hand, owners that are not complying with applicable rules should face enforcement measures like any other owner violating the rules.

C. Proposed Business Activity Rule is Ambiguous

The proposed Business Activity rule is vague and ambiguous, and therefore difficult to understand and enforce. For example, is “increased traffic or parking” measured in comparison to a vacant lot, to a home occupied by a single family, or against some other standard? Similarly, is “excessive noise” based on objective measurements such as decibels at the property line or on someone's subjective determination of reasonableness? Also, what is a prohibited “corporate event”? Does it include a handful of corporate officers or employees renting a home for a strategy session, for a corporate bonus, or for a team-building retreat?





VI. Conclusion

Although the proposed Private Property Rules address three important concerns (noise, light pollution, and certain large rental gatherings), please pause and consider an alternative approach. The areas of concern addressed by the proposed rules are largely covered by existing TDA and Town of Truckee rules. Rather than adopting broad, restrictive new rules that materially alter the existing rights of all TDA members, including those complying with the existing rules, I encourage you to address the underlying issues through (1) increased education of owners and guests and (2) increased enforcement of existing rules, particularly against those homes and owners that are truly problematic.

Thank you for your consideration.



August 19, 2018

To: Tahoe Donner Association Board

Subject: Comments on Proposed STR Covenants and Fines Revisions

Thank you for the very thorough and thoughtful process with which you have consulted with the membership on the STR proposed covenant changes. After watching this week's board meeting and reading the comments submitted, we would like to offer the following observations for your consideration before voting on the final rule changes:

1. It appears to us that there is consensus among the members that the status quo is not sustainable and that some changes are needed to address the various problems, i.e., noise, parking and obnoxious behavior, that have been the source of numerous complaints leading to the consideration of these rule changes.
2. There also seems to be consensus that whatever changes are put in place, they should be applied to all properties, not just STRs to avoid creating an "us vs. them" environment.
3. It appears to us (without hard data) that the problem STRs are a relatively small percentage of the total that are available to the rental market, and that the owners of those properties have not taken the appropriate actions that are needed to avoid repeat violations. They are the primary offenders that need to be targeted with negative consequences needed to change their behavior.
4. The most frequent complaints by those adversely affected by the problem properties is that when they call the Hot Line to report problems, the problems are not mitigated in a timely manner, if at all.
5. Many commenters believe that the existing rules regarding noise, lights, etc. are sufficient, but are not being adequately addressed or enforced in a timely manner.
6. A number of commenters stated that they believe this is just an education problem and that the owners and the renters don't know the rules.

As part-time second home owners who do not rent our house out but have several STRs near us, we would propose that the Board take the following actions (along with providing the rationale for each):

- Whatever rules are finally issued in this matter, make them applicable to all owners. This will avoid the "us vs. them" issue which could be detrimental to our community.
- Make it very clear that the owner of the property is responsible and accountable for all actions and behaviors of the renters and residents of that property and that it is the owners' responsibility to educate themselves and their residents/renters on the CC&Rs, not the HOA. (This is to take away the excuse of "I didn't know". Owner accountability needs to be made very clear in whatever gets issued.)
- Immediate and timely enforcement of violations of the existing noise and obnoxious behavior rules will be the most effective way to change the behaviors of the problem owners and the resident/renters. We submit that TD has become large enough that it is time we establish an on-shift security patrol that is educated by and works for association management and with the Covenants Committee to enforce the current CC&Rs. We only would need 1 person and 1 car

per shift 24/7 that would respond to calls to the Hot Line. This would provide timely intervention with the problem properties, regardless if they are STRs or owners causing the problem. It would also provide a first-hand witness of the possible violations and a written report of the conditions found to be presented to the Covenants Committee when they consider a potential fine. I believe this timely mitigation of the problems reported will do a great deal towards placating the residents who reported the problem and negate the need for extensive new rules.

- Whatever new rules are put into place, the rationale for these need to be included so that the membership understands why they were included. For example, one member stated at the recent Board meeting that he didn't want to put the evacuation map in his house that he rents out. As a member of the working group that generated that map, our rationale is that renters are not familiar with the TD layout and road system and that if an evacuation became necessary, it is incumbent on the owner to provide information to renters on how they will be notified and how to get out. Hotels are required to provide this information as a safety imperative, so it makes sense that residents and renters have the same information. It is not the intent to have it posted all the time, just to provide it to renters and visitors if the owner is not there. If that rationale is made available to the members, I don't think anyone would argue.

We do believe that timely intervention with problem residents/renters to enforce the existing CC&Rs along with appropriate fines to provide negative consequences to owners of properties that are persistent problem violators are the most cost effective approach to the problems that have created this important issue now in front of the Board. Creating new rules are merely new antecedents which in themselves, do not significantly influence behaviors. The addition of timely feedback and consequences will be the most effective way of stopping problem behaviors.

Thank you for the opportunity to provide these comments.