

DECISION PAPER

May 16, 2018

Issue:

There is an identified need to amend and create new Covenants Private Property rules.

45-day member notification of the Board of Directors' consideration for action on rules is required under C&R Article III, Section 7.

Background:

Tahoe Donner homeowners value the peace, quiet, outdoor lifestyle and amenities that Tahoe Donner offers. Enjoying all these benefits with family and friends, and engaging in healthy activities are primary reasons that many purchase their homes, whether as a primary residence or a second home get-away and retreat.

In recent years, many members have expressed a growing sense that their Tahoe Donner quality of life is becoming affected by increasing "nuisance" activities. They report these activities and behaviors interfere with the quiet and peaceful enjoyment of their homes.

Many members approached the Board of Directors and staff over the last year expressing their concerns, and complaints to staff regarding nuisance activities increased significantly. Additionally, staff report an increase in nuisance related complaints from the membership.

Staff, the Covenants Committee and the Short-Term Task Force have all reviewed and discussed the nature of the complaints as applicable to existing Tahoe Donner rules and have zeroed in on behavioral nuisance problems as the root of general member feeling of reduced neighborhood enjoyment. The sub-categories within nuisance or noxious identified were items like are excess noise and light pollution, particularly after 10:00 pm, parking, trash left out or placed in neighbors' containers, camping on residential lots, speeding and amenity over-crowding.

Some of this type of behavior comes from lack of education for the owner and family, guest, and renter. Management has increased education outreach along with increased enforcement staffing to include 7-days a week and after-hours shifts on Friday through Sundays and holidays.

There is the fact that many of the identified nuisance related complaints were not supported by regulations was confusing to members and hindrance for enforcement when complained





upon. Many people assumed "courtesy" recommendations like light pollution and quiet hours were rules, when in fact they are unenforceable good neighbor suggestions.

The Task Force and staff determined that clearer "noxious activity" rules, particularly regarding noise, lights and commercial activity, are needed to ensure that everyone is aware of the specific prohibited activity, and to make enforcement easier for that reason.

The Task Force provided their work to date on their charges to the Board of Directors at the April 24, 2018 board meeting which included making recommendations to adopt more specific and definite rules regarding nuisance activity, particularly noise, lights and commercial activity, which would apply to all residents, homeowners and renters alike.

The Board of Directors was generally supportive of the direction being recommended and as such tasked staff to work with the Task Force leader, Covenants Committee chairman and legal counsel to come back to the board at the May 26, 2018 Board of Directors meeting, with a more formalized draft of recommended rules for the Board to consider going out for 45-day member notification. This in accordance with TDA Covenants and Restrictions Article III, Section 7,

- (a) The Board may, from time to time and subject to the provisions of this Declaration, propose, enact and amend rules and regulations of general application to the Owners of Separate Interests within the Properties ("Association Rules")...
- (b) "Association Rules may be adopted or amended from time to time by the Board...no Association Rule shall be adopted until the proposed rule or amendment thereof has been published to the Members at least 45 days prior to the date when the Board is scheduled to act of the proposal."

Attached for review and discussion please find Draft 45 Day Member Notifications for Covenants New and Amended Private Property Rules.

Due to publication timing, the proposed rules will go out to the 45-day member notification in the July Tahoe Donner News followed with the Board of Directors consideration and action at the August Board of Directors meeting.

Options:

Option 1: Take no action;

Option 2: Take board guidance on current draft rules and bring back to the board for 45-day member notification at the June 22, 2018 board meeting;





Option 3: Consider approving for 45-day member notification as presented;

Option 4: Consider approving for 45-day member notification with modifications

Recommendations:

The Short-term Task Force and management are requesting the Board of Directors consider Option 3: Consider approving for 45-day member notification as presented

Prepared By: STR Task Force Leader, Laura Lindgren and Annie Rosenfeld, Director of Risk	
Management and Real Property	
General Manager Approval to put on Agenda:	Date:

DRAFT

45 DAY NOTICE

COVENANTS NEW AND AMENDED PRIVATE PROPERTY RULES

New and amended Covenants rules will be considered for action by the Board of Directors. The Board of Directors is expected to take action to adopt these rules, as they are presented here or with some modification, at its August meeting, currently scheduled for Saturday, August XX, 2018. The board welcomes any input you may wish to offer regarding this process.

Proposed Covenants Private Property New Rules Recommendations:

Noise: The hours between 10:00 p.m. and 7:00 a.m., seven days a week are considered quiet hours. The hours of 10 p.m. to 7 a.m. are deemed quiet hours, when outdoor noise should be minimized and noise that is an unreasonable annoyance or nuisance to neighbors, including outdoor music, late-night partying, amplified or motorized sounds. Any noise violation does not also have to be a violation of a noise ordinance or other law.

Light Pollution: All exterior lights must be turned off or dimmed between the hours of 10:00 p.m. and 7:00 a.m., seven days a week that are no longer needed for safety or other use. Any lights that are used or may come on between the hours of 10:00 p.m. and 7:00 a.m. shall not shine beyond the boundaries of the Owner's Lot, and shall not interfere with the reasonable enjoyment of another's Lot. All exterior lights must comply with Architectural Standards adopted by TDA, including the requirements that exterior lights be covered and project downward, and applicable requirements for timers and motion detectors for exterior lights.

Proposed Covenants Private Property Rules Amendment Recommendations:

(Black text indicates existing rule; red text indicates proposed amendment)

Business Activity: No business or commercial activities of any kind, shall be conducted in any Residence, Condominium or outbuilding or any other portion of any residential or multiple family residential lot if those activities involve any of the following (C&RS Article VIII, Section 1,f):

- 1. Exterior advertising
- 2. Increased traffic or parking
- 3. More than an insignificant number of deliveries of goods or other commercial materials
- 4. Visible storage of goods or other commercial materials
- 5. Excessive noise

The property may not be rented for weddings, civil unions, receptions, corporate events, and large commercial parties. This prohibition is set forth to ensure the use of properties are in

keeping with the residential nature of the community.

Noxious Activities: No illegal, noxious or offensive activities shall be carried out or conducted upon any lot, nor shall anything be done within the properties which is or could become an unreasonable annoyance or nuisance to neighboring property owners.

Without limitation, the following activities could be considered unreasonable noxious activities depending on circumstances and sufficient evidence:

Excessive, disruptive or objectionable noise at all times, including, but not limited to barking dogs, the operation of excessively noisy air conditioners, stereo amplifier systems, television systems, motor vehicles (including snowmobiles) or power tools to emanate from an Owner's Lot which would unreasonably disturb any neighboring property owner's, tenant's or guest's enjoyment of his or her Lot. This includes noise levels in excess of what is permitted by applicable laws between the hours of 10:00 p.m. - 7:00 a.m., seven days a week are prohibited;

INFORMATION



SHORT-TERM RENTAL RULES, ENFORCEMENT AND FINE SCHEDULE

May 18, 2018

Issue:

An initial draft of proposed Short-Term Rental rules, enforcement and fine schedule based on STR task force recommendations and legal counsel.

Background:

The Short-Term Rental Task Force, management, and legal counsel were tasked by the Board of Directors to prepare an initial draft of Short-Term Rental rules, enforcement procedures, and fine schedule after the Board of Directors received the Short-Term Rental Task Force presentation and recommendations at the April 24, 2018 Board of Directors meeting.

An initial draft of proposed Short-Term Rental rules, enforcement and fine schedule based on STR task force recommendations, staff input and legal counsel is provided herein. For reference, a copy of the STR task force April 24, 2018 presentation is included.

The intent of this information paper and initial drafting is:

- Further the goal and directive of the Board of Directors in addressing member concerns as they relate to Nuisance Activities and to Short-Term Rental impacts to the residential neighborhood.
- Continue open communication with the membership of the work being done.
- Communicate the recommendations and resulting draft rules and fine schedule being discussed.
- Facilitate membership comment and provide this feedback to the Board of Directors at board meetings.

Recommended Next Steps:

- Staff and the STR task force are looking for direction from the Board on this initial draft.
- Approval to further communicate the initial draft to the membership through TD communications channels.
- Intent is to modify as needed based on Board comments and member input over the next few weeks.

INFORMATION



 Bring back to the Board of Directors a recommendation for the board to consider going out for 45-day member notification to the membership at the June 22, 2018 board meeting.

Prepared By: Laura Lindgren, STR Task Force leader, Annie Rosenfeld, Director of Facilties and Risk Management

Board Meeting Date: May 26, 2018

General Manager Approval:

DRAFT

NEW COVENANTS SHORT-TERM RENTAL RULES AND FINE SCHEDULE

<u>Proposed Covenants New Rules and Fine Schedule Recommendations Concerning Short-Term</u> 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 are considered stays of less than thirty-one (31) continuous nights.

Short-Term Rental Registration: All Owners of short-term rentals within the Tahoe Donner Association must register with the TDA administrative office to operate a short-term rental property within the Tahoe Donner Community. Disclosure of total number of bedrooms and sleeping lofts 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 and must provide evidence of compliance certificate issued under Town of Truckee TOT program.

Real-Time Contact: As condition of permit issuance, the Owner must provide, among other details to be specified in the Registration, contact information wherein a live person, with the authority to address the issue at the property, is available to respond 24 hours a day/7days a week within 30 minutes to any complaint of a violation(s) of TDA rules where warranted.

Complaint Response: Within 30 minutes of contact by TDA regarding a complaint, Owner or Agent, must respond back to TDA. Within 30 minutes of contact by TDA regarding a complaint, Owner or Agent, must respond at the property in person or by telephone to the property.

Compliance and Notification: All Owners, renters, and vacation renters must comply with all provisions in the TDA Governing Documents 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, to renters before they arrive and advise them of the obligation to follow the rules, and a copy of the rules should be available in the residence. This list will be maintained by TDA on the Association website. It is required the Owner obtain an acknowledgement from the renter that they have reviewed the rules. (C&R Article II, Section 3(a))

Occupancy: When functioning as an STR, no home may be advertised to or occupied by more than two (2) people per bedroom plus four (4) additional people total [unless otherwise restricted by TDA Rules]. TDA may take disciplinary action on any owner who knowingly supplies false information.

Parking: 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 street parking and no parking on unpaved areas of Lots;

Short-Term Rental Violation Enforcement and Fine Schedule

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, several or potentially any or all of the following disciplines:

- a. For a first violation impose a fine of minimum of five hundred dollars (\$500) up to \$1000 and take appropriate action to collect the fine(s);
- b. For each subsequent violation impose a fine which increases by five hundred dollars (\$500) per occurrence and take appropriate action to collect the fine(s), i.e. 2nd violation one thousand dollars (\$1,000), 3rd Violation one thousand five hundred dollars \$1,500,etc.;
- 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;
- c. Suspend the right of the Owner, renter or vacation renter to use or allow renters use of common areas or common facilities (except for ingress and egress to the property);
- d. Impose a special individual assessment against the property 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;
- e. Suspend the Owner's voting rights;
- f. The Board of Directors reserves the right and is empowered to limit the use or rental of any property, 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 rental agreement that any fines may be passed along to the renter. It will also recommend that each rental agreement should include a deposit to cover any possible fines that may arise. Additionally, the Association recommends a loud hard line telephone is installed at the property to ensure compliance with above stated response rule.





STR/Amenity Task Force

INITIAL PHASE II RECOMMENDATIONS

Task Force Charge

Phase I

- Gather additional information on the most widespread concerns associated with STR's or other reported violations
- 2. Determine which concerns are already governed, generally or specifically by Truckee rules or TD governing documents,
- 3. Make recommendations on to help communication and prompt enforcement of the rules

Problems Identified

- 1. Excessive noise, particularly loud noise on outside decks, hot tubs or around fire pits, late at night or after 10
- 2. Light pollution
- 3. Trash left out or placed in neighbors' containers
- 4. Large numbers of cars and cars left in street, including cars that are parked on unpaved portions of a lot, or that block roads or driveways in the winter, or prevent the snowplows from clearing
- 5. Lack of cars properly equipped for winter driving, which cause danger or block residents and snow plows from access to their homes (and can prevent a visitor from reaching the residence)
- 6. Camping on Tahoe Donner lots or in streets
- 7. Amenity crowding or over-use or improper use of amenity usage cards
- 8. Speeding on residential streets

Many residents also expressed concerns about their inability to have the issues addressed when they occurred or to prevent reoccurrence.

Phase I Recommendations

At the December 2017 Board meeting, the Task Force presented a summary list of existing Tahoe Donner and Town of Truckee rules addressing the primary problems identified by residents.

The Phase One recommendations of the Task Force regarding existing rules were approved by the Board. In addition, Tahoe Donner staff implemented expanded evening and weekend office hours to respond to violations in real time.



Phase II

Phase Two was designed to address:

"whether it is advisable for the Board to enact or implement additional, specific regulations (for example, prioritizing homeowners' access to amenities, or limiting the number of people or vehicles related to short-term rentals) under its existing authority to preserve the welfare and enjoyment of the residents."

and

"it may be that there are some rental uses that are so subject to abuse, and that are so incompatible with the residential nature of Tahoe Donner, that they should be prohibited."

Task Force Work: January – April 2018

Analyze
nuisance
activity rules
from other
resort
HOA's/towns

Analyze enforcement procedures from other resort HOA's/towns Obtain input and information from other committees / Task Forces

Discussions and input from concerned residents

In-depth
discussions and
idea
exchange
among TF
members

Key Phase II Issues

Two key issues identified are the need for:

- 1. More specific and definite rules regarding "noxious activity" such as noise, lights and commercial activity,
- 2. STR regulations and procedures to ensure compliance and stronger, more prompt enforcement of rules, including rules regarding noxious activity

Noxious activity rules, of course, apply to home owners, guests and renters alike

Noxious Activities

<u>Prohibition of Noxious Activities:</u> No illegal, noxious or offensive activities shall be carried out or conducted upon the Common Area, or other Association-owned properties, nor shall anything be done within the properties which is or could become an unreasonable annoyance or nuisance to neighboring property owners. Without limiting any of the foregoing, no Owner or Resident shall permit noise, including but not limited to the barking of dogs, the operation of excessively noisy air conditioners, stereo amplifier systems, television systems, motor vehicles (including snow mobiles), or power tools to emanate from a Lot that would unreasonably disturb another Owner or Resident's enjoyment of his or her Lot or a Member's enjoyment of the Common Area.*

The hours of 10 p.m. to 7 a.m. are deemed quiet hours, when outdoor noise should be minimized and noise that is an unreasonable annoyance or nuisance to neighbors, including outdoor music, late-night partying, amplified or motorized sounds, or sound in excess of what is permitted by the Town of Truckee after 10:00 p.m., is prohibited.

....Noxious Activities Prohibited

<u>Light Pollution</u>. After 10 p.m., exterior lights that are no longer needed for safety or other use, shall be turned off. Exterior lights must comply with the applicable Architectural Standards adopted by Tahoe Donner, including the requirements that exterior lights be covered and project downward and not beyond property boundaries, and the requirements for timers and motion detectors for exterior lights on the side or back of the house.

Red additions to be added to article 4 of the Covenants Rules under Noxious Activities Prohibited

Prohibited Commercial Activity

No business or commercial activities of any kind shall be conducted in any Residence, Condominium or outbuilding or any other portion of any residential or multiple family residential lot if those activities involve any of the following (C&RS Article VIII, Section 1,f):

- 1. Exterior advertising
- 2. Increased traffic or parking
- 3. More than an insignificant number of deliveries of goods or other commercial materials
- 4. Visible storage of goods or other commercial materials
- 5. Excessive noise*

Commercial activity not in keeping with residential nature of property is prohibited. The property may not be used for commercial activities such as commercial weddings, receptions or large commercial parties.

STR Regulations and Enforcement

Based on the problems experienced, and the rules to mitigate problems and enforce rules enacted by other towns/HOAs, rules in the following areas are recommended:

- Owner/representative, available to address problems in real time (30 minutes where warranted), registered with TD office
- Owners must provide a list of the applicable Tahoe Donner rules to guest/renters before they arrive, and a copy of the rules should be available in the residence.
- Limits on parking and occupancy
- Violations of the rules will result in increasing fines and eventual loss of rights to STR.

Recommendations re: rental activity and enforcement

- 1. Owners who engage in rentals must provide contact information to the Tahoe Donner office for the owner, a representative (such as a management company) or other third party, who is available 24x7 to address problems in real time when they arise. The contact person must be able to respond within 30 minutes of a call where the matter warrants a prompt response.
- 2. Owners must provide a list of the applicable Tahoe Donner rules to guest/renters before they arrive, and a copy of the rules should be available in the residence. It is recommended that the owner obtain an acknowledgement from the renter that they have reviewed the rules.

...Recommendations re: rental activity and enforcement

- 3. Parking for STR groups is limited to the number of cars that fit in an available garage or paved driveway, or in the assigned parking spot(s) for condominums.
- 4. Occupancy for STRs is limited to two per bedroom plus plus two additional adults or four additional children. [Alternative: Occupancy for STRs is limited to two per bedroom plus two additional adults. Additional children are permitted.]

...Recommendations re: rental activity and enforcement

5. Where not resolved informally, violations of the rules will subject the owner to fines, increasing with each violation. Fines will be imposed where the police are called to respond and prepare a report reflecting the noxious activity; where staff observes a violation; or where there is a finding of a violation by the Covenants Committee. In the case of a police report or staff observation, the initial report will result in a warning to the owner, with fines being assessed thereafter.

The fines are suggested to be as follows: \$500 for the first violation, \$1000 for the second violation, and \$1500 for the third violation. Owners are advised to provide the right to require the renter to pay any fine in its rental agreement. Where any of the foregoing occur three times, the owner will be prohibited from engaging in STRs for a year.

Examples of typical STR regulations

- Tahoe Keys
- South Lake Tahoe
- Pacific Grove
- La Quinta "Golf Resort"

A. Tahoe Keys Short Term Vacation Renter Policy:

- Noise Restrictions and Quiet Times. (Prohibits "excessive, disruptive or objectionable noise including noise levels in excess of what is permitted by applicable laws after 8:00 pm on weekdays and 10:00 p.m. on weekends.")
- 2. <u>Limits on Number of Renters (limited to "two (2) people per bedroom plus</u> four (4) additional people")
- 3. Owner or representative must be identified and available for contact ("The owner or the owner's agent must be available for immediate contact.")
- Commercial activity not in keeping with residential nature of property prohibited ("The property may not be used for commercial activities such as weddings, receptions or large parties.")
- 5. Limits on Number of Vehicles
- 6. Disorderly conduct or harassment of residents is prohibited
- 7. Enforcement Zero tolerance for noise, over-occupancy and other nuisance activity, with a \$1000 fine per occurrence (recommend that owners charge a \$1000 refundable nuisance deposit to each renter, and require that the rules be delivered to and signed by each renter)

Source: https://www.tkpoa.com/component/tags/tag/16-rules

B. South Lake Tahoe

- 1. <u>Limit on Number of Renters</u> (limited to two per bedroom plus 4, or limited by parking space, whichever is less)
- Noise/Hot Tubs. No excessive noise is permitted after 10pm. No use
 of outdoor hot tubs with jets or blowers after 10:00 pm ("Use of all
 outdoor spas or hot tubs shall be prohibited between the hours of
 10:00 p.m. and 8:00 a.m.")
 - In addition, ordinance states: "Noise. In addition to all noise standards set forth in the city code and TRPA code, the use of any equipment generating noise and the use of outdoor amplified music, speakers or other amplified equipment is prohibited between the hours of 10:00 p.m. and 8:00 a.m."
- 3. Parking is limited to garage and paved driveway. No street parking.
- 4. <u>Prohibition on Commercial Activity</u>. "Commercial Activity Prohibited. Vacation home rentals shall not be used for commercial activities, including, but not limited to, weddings, receptions and large parties. All occupants of the vacation home rental shall be notified of the prohibition against commercial activities prior to the reservation, rental, or lease of a vacation home rental."
- Prohibition on Camping. "Camping and sleeping in tents, travel trailers, campers or recreational vehicles shall not be permitted on the vacation home rental property."
- Enforcement. Local contact person or property manager must be within a 30-mile radius available to address problems with the shortterm rentals

- 7. <u>Fine on owner for violation</u> is a minimum of \$1000 to both owner or guest, with STR permit revocation if there are three citations within a 24 month period
- 8. <u>Limitation</u> on number of homes permitted to STR in residential (non-commercial) areas
- 9. Notification to renters of the rules is required.
- 10.No large scale special events
- 11 <u>A second community service officer hired</u> to patrol short term rentals
- 12. Camping is prohibited on STR properties.
- 13.STR must install bear box bins

(South Lake Tahoe ordinance:

 $\frac{http://www.codepublishing.com/CA/SouthLakeTahoe/\#!/southlaketahoe03/SouthLakeTahoe0350.html\#3.50.370~)$

C. La Quinta (Desert Golf Resort area)

- Number of guests limited to two per bedroom plus two, up to a maximum of 14.
- 2. <u>Noise restrictions</u> including no outdoor stereos or sound equipment after 10 p.m.
- 3. <u>Enforcement:</u> Neighbors have access to a 24/7 hotline to file a complaint. The homeowner or an appointed agent must respond within 45 minutes of a complaint.

Source: http://www.laquintaca.gov/home/showdocument?id=16764

D. Pacific Grove

- <u>Limited</u> to 250 homes (our of 8250 homes), but does allow unlimited rental of a room in a house where the owner is present and residing. Also limits number on any block, and will use a lottery to restrict.
- 2. <u>Occupancy.</u> Overnight occupants (age 18 or over) are limited to two per bedroom plus one. Day time visitors are limited to 1.5 the number of overnight occupants.
- 3. <u>Enforcement</u> An STR owner farther than 30 minutes away by car from the STR unit must appoint a Site Manager

Source: https://www.cityofpacificgrove.org/living/community-economic-development/short-term-rental-program