



STAFF REPORT – PROPOSED AMENITY ACCESS RULE CHANGE

RECOMMENDED BOARD ACTION:

By Motion:

The Board of Directors adopts Policy Resolution 2024-13, which:

1. Rescinds Resolution 1998-4, Access to Tahoe Donner Association Amenities, and
2. Rescinds the Tahoe Donner Association Amenity Access Policy, and
3. Adopts the Amenity Access Rule (Exhibit B), and
4. Adopts the initial Amenity Access Rule Phased Implementation Plan (Exhibit C)

By Motion:

The Board of Directors approves the proposed 2025 Operating Plan Fees relating to the rule change as indicated in Exhibit D with Daily Access Fees Option #TBD.

BACKGROUND:

The existing Amenity Access policy was adopted more than three decades ago. Today's Tahoe Donner is a much different place, and the existing policy is largely out of date. Through member feedback over the last several years, Tahoe Donner leadership has also heard member concerns regarding member value and enjoyment, and private amenity overcrowding. As a result, the 2021-2026 Strategic Plan prioritized addressing the amenity access policy. See below Strategic Plan Goal 2.2.

Strategic Plan Goal 2.2: High-quality recreation amenities and programs are well-maintained, operated, and utilized.

Objectives

1. *Tahoe Donner develops, maintains and operates a wide variety of amenities that operate both year-round and seasonally to serve homeowners, guests and visitors.*
2. *Amenity utilization, cost recovery and user satisfaction of amenities and facilities are optimized through scheduling, staffing and amenity access and fee policies.*
3. *A variety of recreation programs are planned and implemented with effective pricing and marketing strategies that drive participant value, attendance and cost recovery.*
4. *Overcrowding at amenities is addressed and mitigated through a combination of scheduling, reservation systems, pricing and amenity access policies.*

The proposed overhaul of the thirty-year-old Amenity Access policy results from an extensive, multi-year, multi-phased process that evaluated the current policy and engaged the membership through surveys, member working group meetings, three special member forums, and board discussions at thirteen workshops.



The culmination of this effort resulted in the board approving the proposed Amenity Access Rule change to go out for a 45-Day Notice with all supporting materials necessary to inform the members about the purpose and effect of the rule change at the August 14, 2024 Special Meeting.

This action was in accordance with Tahoe Donner Covenants and Restrictions (“C&Rs”) Article III Section 7 “The board may, from time to time, propose, enact, amend rules and regulations of general application to the Owners of Separate Interests within the Properties.” Article III Section 7 (b) states, “...no association rule shall be adopted until the proposed rule or amendment thereof has been published to the members at least 45 days before the date when the board is scheduled to act on the proposal...” This notice is referred to as a (“45-Day Notice”) in the Tahoe Donner rule-making process.

The purpose of the proposed Amenity Access Rule change is to entirely replace the outdated policy with a new Amenity Access Rule designed to meet Tahoe Donner’s current and future needs. Additionally, the rule change is intended to achieve the following outcome goals:

- Promote member value
- Promote a sense of community among members
- Protect the Amenities, environment and membership
- Foster member enjoyment and use
- Simplify the policy for ease of understanding and administration
- Support a long-term, sustainable, and equitable funding and pricing system
- Clarify user categories

This Staff Report summarizes 1) the final phase of the Amenity Access initiative – Rule Change Process, 2) the top five themes of the submitted member comments received during the 45-Day Notice period, 3) a recommended technical modification to the proposed Amenity Access Rule, 4) recommended changes to the initial multi-year Phased Implementation Plan, and 5) the proposed Operating Plan fees related to the Amenity Access Rule change.

The 45-Day Notice period for the proposed Amenity Access Rule Change expires on October 9, 2024. Having complied with the C&Rs rule-making process, the board can choose to adopt the proposed rules as presented or with modifications at the duly noticed October 10, 2024 special board meeting.

ANALYSIS:

Final Phase of the Amenity Access Initiative – Rule Change Process

The final development of the proposed Amenity Access Rule and Phased Implementation Plan was completed between May and the beginning of August this year. At the May 31, 2024 Amenity Access Board Workshop, staff presented an initial draft of the proposed Amenity



Access Rule change and the suggested Phased Implementation Plan. The board provided guidance and feedback on the working draft and requested follow-up relating to financial modeling and the financial implications of the working draft rule.

Two subsequent Amenity Access Board Workshops were held on June 19 and July 26, 2024 where updated working drafts of the rule and implementation plan along with financial modeling illustrating the financial implications of the working draft rule were reviewed and discussed. The board provided additional feedback and requests and supported staff to refine the draft rule and associated implementation plan to present at a member forum before the board of directors considers a decision to authorize publishing a 45-Day Notice of proposed rule change.

The final draft (95% complete) of the proposed Amenity Access Rule change was presented to the board and members at the August 5, 2024, Special Board Meeting and member forum. Following the presentation, staff and the board held a Q&A period with participating members. The proposed Amenity Access Rule and Phased Implementation Plan were further refined and incorporated some member feedback provided at the August 5 member forum.

In accordance with the Tahoe Donner C&Rs Article III Section 7, the following next steps were taken,

1. Board Action at the August 14, 2024 Special Board Meeting: The board authorized the publication of the proposed Amenity Access Rule change for a 45-Day Notice with all supporting materials necessary to inform the members about the purpose and effect of the rule change. See Exhibit A.
2. The publication of the 45-Day Notice was sent via a special individual delivery mailer to the members to expedite the notice period start date effective August 26, 2024.
3. Board agenda item: The Board heard member comments on the proposed rule change at the September 27, 2024 board meeting.
4. Future action item: The Board will consider action to adopt the rule change with or without modifications at a special board meeting held on October 10, 2024, scheduled in the evening.

In addition to the above-required process, a member forum was held on September 23, 2024, to answer member questions regarding the proposed rule change.

Summary of Themes from Submitted Member Comments

The 45-Day Notice was mailed as individual delivery on August 26, 2024, which initiated the 45-day member notice period. Members were instructed to submit their member comments through an online form at <https://www.tahoedonner.com/amenity-access-policy/> or via USPS mail to:

Tahoe Donner
Attention: Patricia West
11509 Northwoods Blvd
Truckee, CA 9616



At the time of the drafting of this staff report, the association has received 95 comments through the online comment portal and 3 comments through USPS mail. Of the comments received,

- 51 are opposed to the rule change
- 18 are in favor of the rule change
- 26 comments did not communicate a position or were asking clarifying questions

The top five themes from the member comments and general responses to them are:

1. **Common Expense Responsibility:** Many expressed the opinion that private amenity operating common expenses should be paid for by private amenity users.
 - a) ***C & R's Article IV, Section 2(c) - Allocation of regular assessment.*** *The total estimated Common Expenses, determined in accordance with subparagraph (a), shall be allocated among, assessed against, and charged to each Owner of Record according to the ratio of the number of Separate Interests within the Properties owned by the assessed Owner to the total number of Separate Interests subject to Assessment so that each Separate Interest bears an equal share of the total Regular Assessment.*
 - b) ***C & R's Article I – Definitions, Section 9 - “Common Expense” means any use of Common Funds authorized by Article 4 hereof and Article 4 of the Bylaws and includes, without limitation: (a) all expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Area, Common Facilities, or Other Association Real Property, (b) all expenses or charges reasonably incurred to procure insurance for the protection of the Association, its property and its Board of Directors, (c) any amounts reasonably necessary to fund reserves for the maintenance, repair, expansion and replacement of the Common Areas and Common Facilities and Other Association Real Property, and for the non-payment of any Assessments, and (d) the use of such funds to defray the cost and expense incurred by the Association in the performance of its functions or in the proper discharge of the responsibilities of the Board as provided in the Governing Documents.***
 - c) ***C & R's Article II – Property Rights and Obligations of Owners, Section 4(g) - Prohibition on Avoidance of Obligations.*** *No Owner, by non-use of the Common Area or Common Facilities, abandonment of the Owner's Separate Interest or otherwise may avoid the burdens, and obligations imposed on such Owner by the Governing Documents, including, without limitation, the obligation to pay Assessments levied against the Owner and his or her Separate Interest pursuant to this Declaration.*
 - d) ***C & R's Article IV – Assessments, Section 1(c) - No Avoidance of Assessment Obligations.*** *No Owner may exempt himself/herself or the Owner's Separate Interest from liability or charge for the Owner's share of any Assessment levied*



against the Owner or his or her share of any Regular or Special Assessment levied against the Owner's Separate Interest, by waiving or relinquishing, or offering to waive or relinquish, the Owner's right to use and enjoy all or any portion of the Common Area or Common Facilities or by the abandonment or non-use of the Owner's Separate Interest.

2. **Proportionality:** Some suggested that the allocation per property for private amenity operating common expenses should be proportional to the number of Member Photo ID Card holders on the property.
 - a) *See Governing Documents references above related to common expense responsibility and proportionality.*
 - b) *Under both the current Amenity Access Policy and the proposed Amenity Access Rule, each property includes four Member Photo ID Cards as an appurtenant right and benefit. The Governing Documents, including Association Rules, define the scope of these and other appurtenant rights and benefits. As an appurtenant right and benefit, the four Member Photo ID Cards run with the property, regardless of any particular ownership situation or characteristics (e.g., number of owners, size of family, residency).*
 - c) *Over the last three years, the Board considered a number of alternatives to including four Member Photo ID Cards with each property as an appurtenant right and benefit. These options ranged from including only one Member Photo ID Card per property to including ten Member Photo ID Cards per property. Considering member service, value, and enjoyment; crowd management; financial consistency and responsibility; the Governing Document's emphasis on single-family residential use and atmosphere, and administrative ease and efficiency, continuing the current practice of including four cards per property provided the most balanced overall approach.*

3. **Member Overcrowding:** Some commenters are concerned that members may start using the amenities more frequently to "get their money's worth," potentially causing overcrowding.
 - a) *The rule change is intended to encourage member use of the private amenities to promote member value and enjoyment and to support a greater sense of community among the members.*
 - b) *The rule change empowers staff to limit non-member access and to control non-member overcrowding to protect the member experience.*



4. **Short-Term Rental Tenants:** Short-term rental operators are concerned about additional fees and how the changes will affect their property's appeal, mostly related to the limitation of six STR ID cards.
 - a) *The rule change is intended to reduce the impact of STRs on the private amenities, while still providing STR operators with the ability to offer private amenity access to their short-term tenants.*

5. **Member Prioritization:** Many members are pleased with the ability to prioritize member use of the private amenities because of the rule update.
 - a) *Prioritizing member use and enjoyment of the private amenities was a primary desired outcome of the policy update.*

Suggested Technical Modifications to the Proposed Amenity Access Rule

Following a review of submitted member comments, and those received verbally, staff is recommending one minor technical change to the rule. This change is related to section I.8(a) which states:

“Children under the age of three (3) shall have unrestricted right of entry to the Private Amenities without a Tahoe Donner Card, provided the child is accompanied by an adult or legal guardian who is validly in possession of a Tahoe Donner Card.”

The current proposed language is silent on Personal Guest access with children under the age of three (3) who may visit the Private Amenities. The intention was not to exclude the opportunity. As a result, the recommended technical modifications, in **bold**, to the rule reads as follows:

“Children under the age of three (3) shall have unrestricted right of entry to the Private Amenities without a Tahoe Donner Card, provided the child is accompanied by **either** an adult or legal guardian who is validly in possession of a Tahoe Donner Card **or by a registered Personal Guest of an Owner.**”

The omission of registered personal guests under the age of three (3) was simply a drafting oversight. The technical edit aligns with current practice under the existing policy, which was intended to continue under the proposed rule.

Pursuant to the C&Rs Article III, Section 7(c),

If the text of the Rule is altered as a result of Member comments or Board deliberations, the complete text of the Rule, as adopted, shall also be reported to the Members in writing. Any notice required hereunder may be effected by publication in the Association's newsletter or in a separate notice mailed to the Members' addresses as shown on the books of the Association.



As such, should the board adopt the proposed rules with the above-recommended modification (Exhibit B), Tahoe Donner will publish this change and the effective date of the rule to the membership accordingly.

Recommended Changes to the Initial Multi-Year Phased Implementation Plan

The proposed Amenity Access Rule, Section J, requires the board “to adopt the initial Phased Implementation Plan concurrent with the adoption of this rule.” Thus, the prepared motion and drafted resolution include adopting the initial Phased Implementation Plan. The board and staff will “review and, if appropriate, update the Phased Implementation Plan at least semi-annually.”

During the 45-Day Notice period, staff initiated a robust planning process to map out detailed SOPs and other implementation back-of-the-house aspects of operationalizing the proposed rule and Phased Implementation Plan. As with any planning, staff identified aspects of the drafted Phased Implementation Plan that should be changed for practical reasons.

The recommended changes to the Phased Implementation Plan are in the following areas:

1. To provide clarity to the requirements for Owner’s Family members who are aged 3-6, all years:
 - Owner’s Family members ages 3-6 seeking Member Photo ID Card holder rights, privileges, and benefits, will be required to obtain a Member Photo ID Card. Each Member Photo ID Card will count towards the total number of Member Photo ID Cards on the property, however, if the Member Photo ID Card for a child aged 3-6 is beyond the 4 available through the payment of the annual assessment, there will be no annual cost associated with these Member Photo ID Cards until the child turns seven (7) years old.
 - Children with the current “Onestore Child” designation will not be required to obtain a Member Photo ID Card until December 31, 2027, or they turn 7 years old, whichever occurs earliest.
 - No later than December 31, 2027, to continue receiving Member Photo ID Card holder rights, privileges, and benefits, all Owner’s Family members ages 3-6 must be assigned a Member Photo ID Card.
2. Personal Guest payment methodology, 2025 – Year 1:
 - No change to the personal guest payment methodology where the personal guest will pay the daily access fee at the time of entry.
 - Staff to develop an optional guest access payment method where the owner can choose to pay the daily access fee for their personal guest(s).

The recommended changes are identified in redline in Exhibit C Phased Implementation Plan – version 10/10/2024.



Proposed Operating Plan Fees Related to the Amenity Access Rule Change

The Amenity Access Rule change requires an annual Operating Plan which, among other things, identifies fees related to private amenity access and administrative costs for processing services. Below is a table (Exhibit D) of the proposed fees that are included in the Operating Plan for 2025:

PRIVATE AMENITY ACCESS FEES	FEE PRICE	COMMENTS
Recreation Fees		
2-Person Recreation Fee	\$305	As proposed in 2025 Budget with decision scheduled for 10/10 morning special board meeting
4+ Person Recreation Fee	\$500	As proposed in 2025 Budget with decision scheduled for 10/10 morning special board meeting
Daily Access Fees		
Member Daily Access Fee	\$12	No proposed change
Personal Guest Daily Access Fee	\$15 or \$17	Fee change to be determined with proposed rule change decision
STR Tenant Daily Access Fee	\$21 or \$24	Fee change to be determined with proposed rule change decision
Resident Tenant Daily Access Fee*	\$12	No proposed change
Other Access Fees		
Extra Photo ID Card Fee for qualified family members ages 7 and up	\$155	The existing fee continues with a recommended increase of \$15 for adding up to (4) more qualified owner's family members beyond the (4) included with payment of the Annual Assessment.
Extra Photo ID Card Fee for qualified family members ages 6 and under	Free	Free, but will count towards card total on the property
ADMINISTRATIVE PROCESSING FEES		
Member Photo ID Card Reassignment Fee	\$25 per person	Recommended fees related to the direct cost of the processing service
Member Photo ID Card Exception Process Fee	\$25 per exception	
Residential Tenant Owner Relinquish Process Fee	\$75 per relinquishment process	
Short-Term Rental ID Card Annual Administrative Fee	\$75 annually per property	

Personal and STR Daily Access Fees

In the 2025 Budget Workshops No. 4 and 5, staff laid out several options for daily access fees to remain revenue-neutral. The board narrowed those options with the desire to combine unaccompanied and accompanied personal guest Daily Access Fees into one rate. There are advantages and disadvantages related to revenue risks for the two proposed options.



Option 1

Personal Guest Daily Access Fees: **\$17 per person**

STR Tenant Daily Access Fee: **\$21 per person**

This option reduces the risk related to obtaining the forecasted daily access revenue target in the 2025 Budget. Accompanied guest access is a historically known volume, so an increase in this user category translates to a known revenue increase. Without data related to the historical unaccompanied guests, the number of historical users that would be receiving a discounted Daily Access Fee (Personal Guest) versus an increased Daily Access Fee (STR Tenant) is *assumed* at 50% but is not supported by data.

Option 2

Personal Guest Daily Access Fees: **\$15 per person**

STR Tenant Daily Access Fee: **\$24 per person**

This option would likely be received better by the membership as accompanied guest rates would remain flat and unaccompanied personal guest rates would decrease by \$5 or 25% with the consolidation of the unaccompanied and accompanied personal guest categories. The revenue gap would be made up by an increase to the STR Tenant access rate of \$4 or 20%. However, the risk of the *assumed* ratio of unaccompanied guests to STR Tenants (50%) has far greater consequences for 2025 daily access revenues if the ratio is incorrect.

Staff is seeking board direction related to which option to include in the 2025 Operating Plan Fees.

Summary

Staff has laid out the pertinent aspects of the rule-making process showing the board may now consider adopting the proposed rule with or without modifications. A drafted policy resolution, Resolution 2024-13 Amenity Access Rule (Exhibit E) is prepared and details the process, purpose, and authority of the board to approve the proposed Amenity Access Rule along with other actions as provided in the recommended motions.



RECOMMENDATION:

The recommended board action is as follows:

By Motion:

The Board of Directors adopts Policy Resolution 2024-13, which:

5. Rescinds Resolution 1998-4, Access to Tahoe Donner Association Amenities, and
6. Rescinds the Tahoe Donner Association Amenity Access Policy 2013, and
7. Adopts the Amenity Access Rule (Exhibit B), and
8. Adopts the initial Amenity Access Rule Phased Implementation Plan (Exhibit C)

By Motion:

The Board of Directors approves the proposed 2025 Operating Plan Fees relating to the rule change as indicated in Exhibit D with Daily Access Fees Option #TBD.

The board has several alternatives:

1. The board may direct staff to modify the proposed Amenity Access Rule and complete a second 45-Day Notice with an estimated additional unbudgeted cost of approximately \$8,000 - 15,000.
2. The board may postpone any portion of the initiative and provide staff with feedback or direction.

OUTREACH:

Extensive membership outreach occurred on the Amenity Access Rule initiative over the last two and a half years including member surveys, working group meetings, member forums, dedicated emails, Tahoe Donner News updates, board of directors meetings and workshops, and Proposed Amenity Access Rule Change 45-Day Notice.

The staff completed due diligence with legal counsel on the proposed rule change and phased implementation plan.

FISCAL IMPACT:

The 2025 Budget considers revenue projections related to the above proposed fees. Annual Assessment implications related to the elimination of Member Daily Access Fees and the Recreation Fee will not have any consequence on the Association's operating budget until 2026 and will be determined as the 2026 annual budget is developed in the fall of 2025.

During workshops and special member forums hosted this past July, August, and September, staff presented a forecast of the implications of the Annual Assessment once the implementation period is completed. The forecasted increase to the Annual Assessment through that modeling was estimated at approximately \$225 per property over the implementation period.



ATTACHMENTS:

- EXHIBIT A 45-Day Notice of Proposed Rule Change
- EXHIBIT B Proposed Amenity Access Rule Change – with modifications version 10/10/2024
- EXHIBIT C Proposed Amenity Access Phased Implementation Plan – with modifications version 10/10/2024
- EXHIBIT D Proposed 2025 Operating Plan Fees
- EXHIBIT E Draft Resolution 2024-13, Amenity Access Rule
- EXHIBIT F Resolution 1998-4, Access to Tahoe Donner Association Amenities
- EXHIBIT G Tahoe Donner Association Amenity Access Policy 2013
- EXHIBIT H Member Comments August 26 – October 3, 2024
- EXHIBIT I Member Comments October 4 – October 9, 2024

Reviewed By: Miguel Sloane, Director of Operations

Prepared By: Annie Rosenfeld, General Manager

Board Meeting Date: October 10, 2024