

## CALIFORNIA BROWN ACT

ITEM 2  
9/11/18

## PREAMBLE:

"The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people do not yield their sovereignty to the bodies that serve them. The people insist on remaining informed to retain control over the legislative bodies they have created."

## CHAPTER V.

## RIGHTS OF THE PUBLIC

§54954.3 Public's right to testify at meetings. (c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law. Care must be given to avoid violating the speech rights of speakers by suppressing opinions relevant to the business of the body.

As such, members of the public have broad constitutional rights to comment on any subject relating to the business of the governmental body. Any attempt to restrict the content of such speech must be narrowly tailored to effectuate a compelling state interest. Specifically, the courts found that policies that prohibited members of the public from criticizing school district employees were unconstitutional. (Leventhal v. Vista Unified School Dist. (1997) 973 F. Supp. 951; Baca v. Moreno Valley Unified School Dist. (1996) 936 F. Supp. 719.) These decisions found that prohibiting critical comments was a form of viewpoint discrimination and that such a prohibition promoted discussion artificially geared toward praising (and maintaining) the status quo, thereby foreclosing meaningful public dialog.

Where a member of the public raises an issue which has not yet come before the legislative body, the item may be briefly discussed but no action may be taken at that meeting.' The purpose of the discussion is to permit a member of the public to raise an issue or problem with the legislative body or to permit the legislative body to provide information to the public, provide direction to its staff, or schedule the matter for a future meeting. (§ 54954.2(a).)

J. ADAMSKY PUBLIC COMMENT  
#2  
9/11/18

## TAHOE RESIDENTS FIRST

**We are a group of residents committed to keeping our Tahoe residential neighborhoods places of peace and tranquility, and maintaining a safe atmosphere for family living.**

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### **\*\* Recommendations for changes to the El Dorado County – Vacation Rental Ordinance (Ord.4653)**

#### **New VHR Permitting Process:**

- (1) Prior to Permitting - All VHR's must be inspected by both the Building Inspector and Fire Marshal with jurisdiction and be found within compliance with County, State and Federal building and safety requirements for use as a commercial short term rental ( Special Use Permit Business)
- (2) All VHR's to be permitted as "Special Use Permits" and meet all the same criteria for approval under the County's Special Use Permitting Requirements.

#### **New Additional Permit Fees:**

- (1) \$1000 per permitted allowed occupant
- (2) \$5000 per Hot Tub

#### **TOT (Transient Occupancy Tax) to be increased to pay for:**

- (1) Two new VHR Designated Officers to handle VHR specific complaints from surrounding homeowners.
- (2) Training for Sheriff's Department Communications Center Dispatchers and new VHR Designated Officers, as well as Sheriff's Deputies.

#### **Parking Requirements:**

- (1) All Vacation Rentals must have TRPA approved onsite paved parking adequate in size to accommodate the allowed number of vehicles under the permit.
- (2) All Permitted Vacation Rental guests and their allowed vehicles are required to park on their paved driveways and in front of their VHR property street side only.
- (3) During snow removal conditions all VHR occupants must park on their paved driveway only.

#### **Fire Prevention:**

- (1) All VHRs are required to have documented defensible space from the Fire District of jurisdiction that meets all requirements of Public Resource Code 4291 prior to receiving permit renewal.

(2) All VHRs are required to have annual business inspections by the Fire District of jurisdiction to meet State and Federal Fire Code laws.

(3) No VHRs are allowed to have outdoor campfires of any kind unless it is a Fire District-approved gas fire pit surrounded by non-flammable material and in an area clear of trees or other vegetation.

**Law Enforcement:**

(1) The Sheriff's Department, Deputies and VHR Designated Officers will be empowered to write civil citations directly to the property owner and renters for any of the following violations;

- (a) Over occupancy
- (b) Over number of vehicles
- (c) Noise / nuisance to neighbors at any time of the day or night
- (d) After hour disturbances
- (e) Parking violations
- (f) Conducting any party or celebration requiring an approved County permit

**Structure of Fines:**

First Violation – 20% of permit fee

Second Violation – 40% of permit fee

Third Violation – 60% of permit fee

**Penalty for excessive violations:**

(1) Three citations in any time limit – permit revoked with one year suspension period. Owners then must wait for re-application and open public hearing and 90% approval by neighbors in 500 foot radius.

(2) Three Citations in any time limit after first revocation – permit is revoked for good and for property regardless of ownership change.

**Maximum VHR Limit / Clustering Limitations:**

(1) The maximum number of permitted Vacation Home Rentals and B&B's is to 600 combined total.

(2) Each Vacation Home Rental and B&B (including Owner Occupied VHR) to have a minimum distance of 500 feet in any direction from any other permitted Vacation Home Rental or B&B.

(3) County is to not re-issue permits to those VHR properties non-compliant with the 500 foot radius rule as their permits expire. The elimination of clustering to be accomplished by attrition of permits expiring.

(4) No "Grandfathering" of existing clustered VHR's or B&B's.

**Mandatory -Face to Face Keys Hand-Over:**

(1) The owner or rental agent (only) will be required physically to meet the guests face to face upon arrival to hand them keys, do an occupancy head-count , and have the renters read and sign the rules and regulations required of them to peacefully occupy the premises. This face to face meeting is not permissible with a phone call or via the internet.

**New Construction for Intentional Vacation Home Rental:**

(1) Any new home construction with 5 bedrooms or more are to be deed restricted for disqualification for use as a vacation home rental prior to construction final being issued by Building Services Dept.

(2) All other qualified new home constructions go through the normal permitting process including (permitting to be approved after a hearing by residents within a 500 foot radius and with a minimum of 90% approval by those residents)