

Public Comment # 45
BOS Recd. 4-27-23

From: mikelef@charter.net
Sent: Thursday, April 27, 2023 3:42 PM
To: BOS-Clerk of the Board; BOS-District V
Subject: Input for May 2 BOS meeting - VHR Program, Proposed Amendments
Attachments: BoS VHR Input 05_02_23.docx

Please find attached our input to the May 2, 2023, Board of Supervisors meeting regarding the agenda item - Vacation Home Rental Program Improvements.

Thank You
Michael LeFevre
Lynda Quirley

To: Eldorado County Board of Supervisors

From: Michael LeFevre & Lynda Quirley

Subject: Input for May 2, 2023 Board of Supervisors Meeting, VHR Code Improvements

We support all the revisions proposed by County Staff for improvements to the VHR ordinances including:

- Implementing permits, fees, inspections, and regulations for Hosted Rentals including empowering Code Enforcement to effectively enforce regulations even when unpermitted, absent owners refuse to stop renting.
- Increasing fines to maximum
- Banning fire pits at VHRs
- Requiring vegetation management compliance
- Allowing decertification of bad Local Contacts
- Establishing additional permit suspension options

Most importantly, we encourage the Board of Supervisors to enhance and empower VHR Code Enforcement so they can effectively deal with VHR owners who do not pay fines and/or refuse to stop renting unpermitted or “Hosted Rentals” where owners are not in residence.

Below we have summarized the most critical VHR issues based on our personal experiences with a continuing illegal, unpermitted VHR across the street from us.

VHR Issues

Issue: “Hosted” rentals (owner claims to reside on property) do not have any accountability.

Problem: The Ordinance allows for “Hosted Rentals” to operate without a permit when owners “reside and sleep” in their VHRs when renters are present. The County has no validation or enforcement process for “Hosted Rentals.” An owner can simply claim they occupy the VHR when it is rented. There is no residency verification that the claim is true. The owner is not required to provide any notification or proof and no one from the County is allowed to check. Since it is assumed the owner is present, there is no requirement for signage or local contact. When problems arise (e.g., late night noise) neighbors can only call the Sheriff. If the Sheriff responds, and if the Sheriff makes a report that the owner is not present, then the County may levy a fine for only one occurrence, even though the owners may continue to rent. It appears Deputies are not informed about requirements for Hosted rentals and may only be looking for noise violations. This Ordinance provision opens a large loophole where any owner can simply claim they are on site, but continue to rent as a VHR without any permit or oversight.

Action Needed: Require permit and fees for “Hosted” rentals that spells out the required residency and other VHR requirements. Provide County authority and means to investigate and enforce claims of “Hosted Rentals.” Establish meaningful fines for violations. Revoke permit if owner is found not in residence or violates any other VHR rules. Require owner to clearly state in all advertising that owner must be present and is in residence during renters stay. Require external signage that informs renters and neighbors that this is a “Hosted” rental and the owner must be present.

Issue: Fines are too low to be an effective deterrent. Fines, unpermitted rentals, suspensions, and revocations are not enforceable.

Problem: Currently fines are set at \$500 for 1st offence, \$750 for 2nd, and \$1,000 for 3rd within an 18-month period. In addition, even though the Ordinance provides for fines for each reoccurrence, the County Counsel has directed Code Enforcement not to issue fines for reoccurring offences (e.g., continuously renting without a permit). Most VHR owners make enough to cover fines in just one night or weekend. The fines are seen as just the “cost of doing business” by many owners and do not result in improved behavior. Some owners simply do not pay fines. After 3 offences in 18 months the County may suspend or revoke the permit. The County has no effective way to detect or enforce operating without a permit. Owners can simply claim the VHR is “Hosted” (see next issue below). In addition, the County does not have any effective way to penalize owners for not paying a fine or halt operating without a permit. Owners can simply ignore the fines and keep operating without a permit even if the permit has been revoked (if they had one in the first place).

Action needed: Increase fines substantially. Develop effective mechanism to collect unpaid fines. Develop reasonable policy to penalize reoccurring offences. Link operating without a permit to Business Permit and associated Taxes and initiate combined penalties for not paying TOT taxes. Notify listing rental agencies such as Airbnb, and VRBO that unpermitted VHRs are illegal and ban listing on any site.

Issue: Most violations and subsequent fines require a “Sheriff’s Report.”

Problem: For the most part, most common violations (e.g. noise) require a Sheriff to report hearing or observing the violation. Local Contact reports do not result in a violation (and subsequent fine). Neighbor reports to Code Enforcement (or Host Compliance) do not result in a violation. Code Enforcement personnel require a Sheriff’s Report to take action. If the Sheriff does not arrive in time or renters evade the Sheriff then there is no report and the incident goes completely undocumented. It appears that a Sheriff’s report is discretionary.

Action Needed: Ensure Sheriff’s Dept understands their role as the enforcement arm of VHR Code Enforcement. Deputies must be knowledgeable regarding VHR Ordinance requirements and how they differ from Civil Code. Responding Deputies need to be aware of issues unique to a VHR, such as the requirement that owners be present at alleged “Hosted” or unpermitted rentals. A Sheriff’s Report should be required for every VHR call out and include a permit check.

Additionally, the county needs to establish Code Enforcement Officers that are empowered to respond to problems at VHRs when reported to relieve some of the burden on the Sheriff’s Department. Code Enforcement Officers would have access to detailed permit and violation histories on problem VHRs and have the authority to issue citations on the spot.

Issue: “Local Contact” procedures are ineffective and have no accountability.

Problem: Local contact procedures do not result in improved behavior. There is no violation when Local Contact responds in 30 minutes regardless of the time, severity or frequency of offensive behavior. Local contact is required to report incident within 24 hours, yet there is no check to ensure the report is submitted or is accurate. There is no mechanism for a victim to report when a Local Contact does not

solve the problem within 30 minutes other than to call the Sheriff since a Sheriffs' Report is required for a violation.

Some have suggested an App where victims of a VHR violation record a video, photo or sound documenting a violation. This puts the reporting party in danger of retaliation by VHR owners. The County does not keep reporting party information confidential.

Action Needed: Hire Code Enforcement Officers that can respond to problems in a timely manner. Develop mechanism to cross check Local Contact reports and initiate violations for reoccurring problems.

Background:

The issues we outlined above are born out of our personal experiences.

In December, 2018 a VHR opened in the house located about 300 feet below our bedroom windows. We have been permanent full-time residents at our home since we purchased it in 2009 (Full time Tahoe residents since 2006). Prior to the opening of the VHR we were never bothered by noise from the permanent residents. The VHR owners developed the backyard into a party area with hot tub, fire pit, tables/chairs, pet friendly fence, and overhead party lights. Our bedroom windows look directly out into the VHR backyard.

In the 1st year (2019) we were awoken by noise between 11 pm and 8 am seven times. We called the Local Contact three times and the Sheriff three times. We understand the owners were fined for three violations (only one for noise). By the time the fines were levied (late 2020) the owners no longer had a valid permit, but continued to rent anyway.

According to Code Enforcement staff this VHR has been operating illegally without a permit since 1/1/2020. Except for the pandemic and Caldor Fire evacuation the VHR has remained in continuous operation and continually listed on Airbnb. Since 1/1/2020, we have been awoken after 11 pm thirteen times.

During 2020 & 2021 the owners continued to display signs with Local Contact info even though they did not have a permit. In July 2020 we had to call the Sheriff because of noise. The Deputy scolded us for not calling the Local Contact. However, the VHR did not have a permit to operate and the owners deceived the Deputy into thinking they were operating legally. In November 2020 at about 8 pm, while we were in the Bay Area, our security camera picked up a car parked in our driveway. We called the Sheriff for a house check. The Deputy discovered the car belonged to renters from the VHR who were trying to evade the 3-car limit. No citation was issued.

The VHR signs were removed sometime in the Fall of 2021, but the VHR has remained in continuous operation without a permit.

According to Code Enforcement staff, the owner claims they are operating a "Hosted" VHR and they are residing in the house when renters are present. Based on the Airbnb listing and reviews, and the late-night noise we have experienced, the owners are clearly not "residing and sleeping" in the rental as required. On the Airbnb listing it is documented the owners communicate via phone and text with renters. For example, when we had to call the Sheriff at 1:15 am in August 2022 because of noise, the Deputy found the owner was not present. Since the owners are not present, we are forced to call the Sheriff when we are awakened by late night noise. We have found that Deputies do not consistently turn in reports to Code Enforcement from our calls to them.

We have met with County staff. In short, while aware of the situation, they are currently powerless to deal with unpermitted rentals.

We urge the County Board of Supervisors to take strong action to correct the ongoing problems with VHRs.

Sincerely,

Michael LeFevre (mikelef@charter.net)

Lynda Quirley