



EL DORADO COUNTY
CHIEF ADMINISTRATIVE OFFICE

MEMO

Date: February 14, 2018
To: Honorable Board of Supervisors
From: Don Ashton, Chief Administrative Officer
Subject: Revisions to County Ordinance Code, Chapter 5.56 – Vacation Home Rentals in the Lake Tahoe Basin (Legistar File 18-0181)

My office is recommending the Board of Supervisors take the following actions at its meeting of March 3, 2018:

- 1) Conceptually approve amendments to Title 5 - County Business License Ordinance of the El Dorado County Ordinance Code, Chapter 5.56 - Vacation Home Rentals in the Lake Tahoe Basin; and
- 2) Direct staff to work with the Vacation Home (VHR) Rental Ad Hoc Committee and return to the Board on April 24, 2018, with the following:
 - a. First reading of a revised ordinance that incorporates as many of the conceptually-approved amendments as feasible;
 - b. A timeline for inclusion of any remaining conceptually approved revisions; and
 - c. A work plan for the VHR Ad Hoc Committee.

DISCUSSION / BACKGROUND

Ordinance Revisions

Chapter 5.56 - Vacation Home Rentals in the Lake Tahoe Basin, was first enacted in 1997 and was revised in 2004. The stated purpose of the ordinance is:

The Board of Supervisors of the County finds and declares as follows:

- A. *Vacation home rentals provide a community benefit by expanding the number and type of lodging facilities available and assist owners of vacation home rentals by providing revenue which may be used for maintenance upgrades and deferred costs;*
- B. *County staff has responded to numerous complaints involving excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking and accumulation of refuse at vacation home rentals which require response from police, fire, paramedic and/or other public personnel;*
- C. *The provisions of this chapter are necessary to prevent or mitigate the continued burden on county services and impacts on residential neighborhoods posed by vacation home rentals.*

Since 2004, the number of Vacation Home Rentals (VHRs) in the Lake Tahoe Basin has grown to nearly 800. In addition, there are approximately 100 VHRs operating outside of the Lake Tahoe Basin. These properties are not subject to the ordinance, but are operating with business licenses and are registered to pay Transient Occupant Tax (TOT).

The growth of the “sharing economy,” spurred by the proliferation of online platforms that enable peer-to-peer transactions, has increased vacation home rental activity and changed the nature of VHRs. A number of jurisdictions experienced increased complaints related to the impacts of VHRs on residential neighborhoods, prompting them to review existing regulations and seek more effective enforcement methods.

County staff has been studying the issue and has researched several other jurisdictions’ regulations and practices regarding VHRs. This work will continue; however, based on input from affected County departments and the public, the CAO has identified several revisions that could be made to the ordinance relatively quickly and that may help to encourage compliance.

It is important to note that these recommended ordinance revisions would only be the first step in a process that includes analyzing the County’s VHR permitting and enforcement function, identifying laws and regulations that have been effective in other communities and which may be implemented here, and exploring options for expanding the use of technology and third-party vendors to enhance efficiency in the permitting, compliance, and enforcement functions. This work will be coordinated through the VHR Ad Hoc Committee.

The CAO recommends conceptual approval of several revisions to the ordinance. The suggestions below represent ideas that will be further refined through the Ad Hoc Committee, not specific ordinance language. Based on the Board’s discussion and direction today, staff will draft language in coordination with the committee and County Counsel.

1. Restructure the violation and penalty provisions to link permit revocation to nuisance behavior, remove the “warning” for the first violation, and increase penalties.

Current language provides for a warning for the first violation within a 12-month period, followed by a penalty of \$250 for the second violation, \$1,000 and permit suspension for six months for the third violation, and possible permit revocation for at least 12 months upon the fourth violation.

Staff recommends penalties of up to \$500, \$1,000, and \$1,500 for the first, second, and third violations, respectively.

In addition, the permit could be revoked after three nuisance incidents within an 18-month period. The owner would not be eligible to apply for re-issuance of the permit for 12 months. The intent of this provision would be to ensure that a permit revocation is based on nuisance behavior rather than a purely administrative violation. This may be accomplished through categorizing violations as “nuisance” or “administrative” violations, by linking permit revocation to the number of times enforcement staff is called to the property and finds one or more violations, or by other means. If the Board approves of this concept, staff will work with the committee to draft a final recommendation.

2. Rephrase sections that refer to owners and occupants making “best efforts” toward compliance to clarify responsibilities and make it easier to discern when an actual violation has occurred.

Current language makes it unclear whether an owner or occupant is in violation of an ordinance provision if he or she makes “best efforts” to comply with an ordinance provision or correct the violation. For example, Section 5.56.090(A)(3) states, “The owner shall use best efforts to ensure that the occupants and/or guests of the vacation home rental do not use or operate any spa or hot tub after 10:00 p.m. and before 8:00 a.m....”

Staff recommends language throughout the ordinance be revised and rephrased to make it clear when a violation has occurred.

3. Require signage displayed prominently on the outside of the rental.

Signage (with minimum size and font requirements) placed outside the VHR displaying the permit number, local contact's information, appropriate County contract information and the ordinance code section citation would enable neighbors and other visitors to understand the regulations and contact the owner's representative directly to report nuisances.

4. Establish a total maximum capacity for occupants and guests after 10:00 p.m. and establish an official quiet time of 10:00 p.m. to 8:00 a.m.

Current language limits the overnight occupancy of a unit but is silent on the number of guests allowed. When the Sheriff responds to a nuisance complaint and finds more people in the unit than are allowed by permit, it is difficult to determine whether a violation has occurred because there is no way to determine who, among those present, is an overnight occupant and who is a guest. It is recommended that the total occupancy, including overnight occupants and guests, be capped between quiet hours of 10:00 p.m. and 8:00 a.m.

5. Expand the ordinance to apply countywide.

There are approximately 100 VHRs operating outside the Lake Tahoe Basin in the unincorporated area of the county. Expanding the ordinance to apply countywide will allow enforcement of the ordinance provisions to those properties, helping to alleviate nuisance concerns for neighbors in those areas. With this expansion, a grace period to allow for compliance would need to be considered.

6. Implement inspections for compliance with the ordinance, permit conditions, and health and safety laws prior to issuance and renewal of a permit.

Currently, approval of a permit does not require an inspection of the property to verify the information submitted in the permit application. The ordinance requirements and permit conditions are meant to help minimize the impact of the vacation rental on the neighborhood and to protect the health and safety of the occupants and neighbors. A pre-permit inspection would help to ensure that a VHR complies with fire and building codes, that adequate parking is available, and that the number of occupants allowed by permit can be safely accommodated.

7. Revise sections regarding responsibility for permitting, inspection, compliance, and enforcement functions.

The current structure places the responsibility for permitting VHR's, monitoring compliance, collecting TOT, investigating alleged violations, and assessing penalties with the Treasurer-Tax Collector. The Sheriff's Office is empowered to enforce the ordinance and is often the first response to complaints from neighbors. Based on research to date, the organizational placement and staffing for these functions vary by jurisdiction. Staff recommends reviewing each of the functions related to VHR's in order to determine the most appropriate and efficient placement within the organization for each and returning to the Board with recommendations.

8. Revise provisions regarding bear-resistant trash receptacles

The Environmental Management Department is in the process of updating chapter 8.76 - Bear-Resistant Garbage Can Enclosures. It is recommended that the VHR ordinance be revised to reference that chapter.

Next Steps

As previously expressed, these initial ordinance revisions are not a comprehensive list. Rather, they are improvements that can be made quickly to encourage compliance and begin to minimize the impacts of VHRs on surrounding neighborhoods. The Ad Hoc Committee will continue to research best practices in other jurisdictions and seek input from all stakeholders, and will likely return in the coming months with additional recommendations for consideration and discussion. Areas of study will include:

- Clusters/saturation of VHRs
 - Identification of impacted areas
 - Moratorium on new permits in impacted areas
 - Cap on total number of VHRs
- Noise management (use of sound monitoring devices, etc.)
- Enforcement against occupants
- Potential use of third-parties to assist with TOT collection, compliance and enforcement
- Cost recovery for permitting, inspection, compliance, and enforcement functions through permit fees
- Penalties and processes related to unpermitted VHRs
- Notification to neighbors of proposed VHRs
- Limitations on occupancy
- Parking restrictions (no street parking, paved parking only, etc.)
- Fire prevention requirements (defensible space, no outdoor fires, etc.)
- Rules for owner-occupied VHRs (minimum time of occupancy during year, etc.)
- Requirements for meeting occupants in person at check-in
- Regulations for construction of VHRs (limits on number of bedrooms, neighbor approval, etc.)

ALTERNATIVES

The Board could choose to make changes to the conceptual revisions to the ordinance, approve other conceptual changes, or not approve any conceptual changes. The Board could also provide alternate direction to staff and the VHR Committee.