

VACATION HOME RENTAL ORDINANCE IMPLEMENTATION UPDATE

October 22, 2019

On September 11, 2018, the Board of Supervisors approved changes to Chapter 5.56 of the County Code of Ordinances, Vacation Home Rentals (VHR Ordinance). As part of that action, the Board directed staff to return to the Board the following March with a report back to the Board on the implementation of the new Ordinance. On March 19, 2019, Chief Administrative Office and Planning and Building Staff presented an update to the Board on the implementation of the ordinance, and recommendations to add staff in order to aid in the implementation of new regulatory and enforcement requirements.

The Board also directed staff to return to the Board with options for reducing the number or density of VHRs in the Tahoe Basin at the second update, one year following the effective date of the ordinance, in October 2019.

PLANNING UPDATE

In March the Planning and Building Department, Planning Division (Planning) reported to the Board that there were a total of 929 VHRs in the County, including those within the Tahoe Basin and the West Slope of the County, which was an overall increase from previous years. Planning outlined the status of the permitting process, the number of applications being processed at the time, outlined the Fire Inspection Process and the associated fees, and provided an overview of the VHR webpage and map. Lastly, a request was made and approved by the Board to add two additional positions, an Associate Planner and a Development Technician, in the Planning Division to provide support for the VHR program using VHR funding. The Associate Planner was intended to be largely dedicated to the VHR program but would have other Planning related duties for the Tahoe Basin VHR program. The Development Technician was intended to be 100% dedicated to the program.

Since March, Planning has filled both of the requested positions, an Associate Planner in the Tahoe Office, and a Development Technician in the Placerville Office. Both staff members are actively participating in the VHR program. In addition, due to the heavy workload associated with new and renewal VHR permits, additional Planning staff resources have been diverted to VHR permit processing.

Planning has continued to work with the Chief Administrative Office and the Surveyor's Office to make improvements to the VHR website, including working on an updated version of the VHR map, and has continued to work with IT and the Surveyor's Office to improve our data collection in TRAKiT, including populating the VHR custom screens and our ability to pull meaningful reports out of the system. Lastly, Planning continues to work closely with the Fire Protection Districts and Fire Departments, especially those within the Tahoe Basin to improve the process for conducting VHR fire inspections, signing off in TRAKiT and/or providing Planning the approved inspection reports. Many of the safety inspections have taken place to date.

Currently there are 933 Active VHRs in the County, of which 863 are in the Tahoe Basin and 70 are on the West Slope of the County. Overall, there have been 384 total VHR renewals submitted (370 Tahoe

Basin vs. 14 West Slope) and 149 total new VHRs (138 Tahoe Basin vs 11 West Slope). At this time, Planning is currently processing 296 new and renewal applications in varying statuses, including Complete (60), Incomplete (64), and Submitted (172), and verifying the status of permits that have not yet renewed. In addition, the County has been contacted by Host Compliance, a company that assists municipalities in implementing and enforcing short-term rental rules, who has indicated that there could be approximately 800 additional unpermitted VHRs in the community. Planning intends to work with the CAO's office and Code Enforcement staff to explore a contract with Host Compliance for their services.

CODE ENFORCEMENT UPDATE

In March, the Planning and Building Department, Code Enforcement Division (Code Enforcement) reported to the BOS on the total amount of VHR related code enforcement complaints by type, outlined code enforcement activities in support of the VHR program, and identified that Code Enforcement staff was continually working toward identifying ways to more effectively enforce the rules and streamline the enforcement process. Code Enforcement also reported that two additional Code Enforcement Officers were being sought, as a result of Board authorized allocations, to address increased workloads associated with adoption of new ordinances, including VHRs.

Since March, Code Enforcement has been working on a number of VHR program related activities. Code Enforcement Staff has input the complaint data into TRAKiT, including a total of 117 investigation files created to store and document complaint/report of violations, and 117 code cases, one for each of the investigation files where violations were verified. Of the complaints/reports received that still need to be investigated, the oldest Sheriff Officer report is dated December 1, 2018. Some Sheriff Officer reports result in a code case for both the renter and owner. Reports associated with unpermitted rental properties or properties lacking exterior signs are typically responded to in 48-72 hours. The most common complaint against owners is the lack of a local contact response, and the most common complaint against renters is noise. Code Enforcement staff has also worked with IT to establish the ability to charge, collect, and receipt violation related fees in TRAKiT. Lastly, Code Enforcement staff has worked closely with the Planning and Building Department Ombudsman to develop 15 different notices for owners and renters to be used for Code Enforcement activities. These notices are currently in Final Draft form and are being reviewed for final approval and subsequent use.

POTENTIAL ORDINANCE UPDATES

Very soon, with the direction from the Board, Planning and Code Enforcement will bring forward for the Board's consideration a number of discussion topics and potential modifications to the VHR Ordinance in order to provide clarity to staff, applicants, VHR operators, and the public; examine potential conflicts associated with VHR permitting in different areas of the County (i.e. West Slope vs. Tahoe Basin), provide clarity to the enforcement process; and streamline VHR Ordinance implementation and processing of VHR applications. These topics include but are not limited to:

- clarify that change in ownership requires a new VHR permit;
- a streamlined application for the VHR renewal process for the 2020 calendar year;

- potential for a 2-year renewal process instead of the current 1-year renewal process;
- revision for clarification on the definition of a “Bedroom”;
- further defining a hosted versus non-hosted rental;
- clarifications on the owner and certified local contact responsibilities;
- structures that can be licensed as a VHR;
- the allowance of a Conditional Use Permit for VHRs for multiple structures on a parcel;
- fireworks, firearms, and incendiary device restrictions;
- trash collection and bear box requirements; and
- signage requirements.

Further, because the new VHR program is still in the early stages of implementation, Planning and Code Enforcement seek the Board’s direction to bring future discussion topics and potential VHR Ordinance updates to the Board on an as needed basis in order to continually monitor and update VHR ordinance.

OPTIONS FOR REDUCING NUMBER OR DENSITY IN THE TAHOE BASIN

As part of their workplan, the 2018 VHR Ad Hoc Committee identified two objectives:

- 1) Improve neighborhood compatibility
- 2) Avoid Overconcentration of VHRs and Commercialization of neighborhoods

The Ad Hoc Committee addressed the first objective by establishing policies and enforcement mechanisms for reducing nuisance issues such as noise, parking, traffic, and safety hazards. Similar cities and counties were used as benchmarks in order to examine policies that help to meet the goal and objectives. The list of comparator counties and cities were as follows:

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| • Napa County | • Mendocino County |
| • County of Sonoma | • Douglas County, NV |
| • Monterey County | • City of South Lake Tahoe |
| • County of Riverside | • City of Palm Springs |
| • Santa Barbara County | • City of Palm Desert |
| • Marin County | • City of Napa |
| • San Luis Obispo County | • City of Healdsburg |
| • Placer County | • City of Santa Barbara |
| • Mono County | • City of Placerville |

At their September 11, 2018 meeting, the Board asked that data be collected in order to assess restrictions to the total number or location of VHR in El Dorado County, especially the issue of dense clusters of VHRs in some neighborhoods. At the March 19, 2019 meeting, staff reported on the status of the implementation of the ordinance at the six-month mark. The Board directed staff to return to the Board in October for a one-year update, and to include information on ways to limit the number or density of VHRs in the Tahoe Basin.

These benchmark communities have regulated the total number, location, or types of short-term rentals in different ways. Some cities and counties have declared the activity incompatible with existing land use patterns and neighborhood character. Others have embraced the practice largely without restrictions. Most communities are opting for a hybrid approach. As shown in the table, many have restricted the total number of VHRs or locations where VHRs are allowed or prohibited.

The following table summarizes the benchmark communities’ restrictions to number, location, or concentration of VHRs.

Policy Option	Benchmarking Cities and Counties	
None	No Ordinance for VHRs: 3 Cities/Counties	Prohibition of VHRs: 3 Cities/Counties
Zoning Restrictions	Exclusion zones (only allowed in some areas): 6 Cities/Counties	Allowed, but not any in Residential Zones: 2 Cities/Counties
Restriction on size/occupancy	Based on Individual permit: 2 Cities/Counties	Limited based on number of rooms: 6 Cities/Counties
Restricted total number of permits	Number limited in Residential areas: 2	No New Permits anywhere: 2 Cities/Counties
Restriction on Clustering	Separation Distance: 1 Cities/Counties	Ratio housing to Vacation rentals: 1 Cities/Counties

Staff has also researched other cities and counties throughout the Country to determine any and all options that may be used to address this issue. The following are the options for restricting the number and/or concentration of VHRs in the Tahoe Basin. Geographic Information Systems (GIS) staff prepared several maps in order for staff to analyze several options for reducing the density of VHRs in areas of high concentration. Staff has also discussed the feasibility of implementation of each potential option. Any combination of these may be further explored. The analysis of each option is below.

Option	Effect	Implementation
1. A cap on the total number of VHRs in the Tahoe Basin.	<ul style="list-style-type: none"> - Would restrict new VHR permits over a certain number, but allow new VHRs to locate in the Basin if existing permits are not renewed - May not address the issue of high concentrations of VHRs in some neighborhoods 	<ul style="list-style-type: none"> - BOS would need to determine cap. Currently the total number of VHR permits in the Tahoe Basin is 863. - Staff would need to track the number of total permits daily to ensure that permits over the cap are not issued. - Once the cap is reached, no new permits would be issued until existing permits were revoked or not renewed.
2. A cap on the ratio of VHRs to long-term rentals or owner-occupied homes in the Tahoe Basin.	<ul style="list-style-type: none"> - Would restrict new VHR permits over a certain number, but allow new VHRs to locate in the Basin if existing permits are not renewed - May not address the issue of high concentrations of VHRs in some neighborhoods - Allows for an increase in VHRs as homes are developed 	<ul style="list-style-type: none"> - BOS would need to determine cap. Currently the total number of VHR permits in the Tahoe Basin is 863. - Staff would need to track the number of total permits daily to ensure that permits over the cap are not issued. - Staff would also need to track the total number of housing units in the Basin. - Once the cap is reached, no new permits would be issued until existing permits were revoked or not renewed, or new housing units.
3. A cap on the number of VHRs in each ¼ mile grid square.	<ul style="list-style-type: none"> - Would restrict the total number of VHRs, but allow for additional VHRs in some areas - Would address density in neighborhoods - May not address clusters of where VHRs are immediately adjacent 	<ul style="list-style-type: none"> - Staff would need to compile and maintain a database with each grid square and monitor the number of VHRs per square - There are 154 squares in the Tahoe Basin with parcels that could allow for a VHR. If the cap were limited to 5 per ¼ square mile, this would cap the number of VHRs at 770. There are many squares that currently contain more than 5 VHRs. - This concept is more difficult than the other options and may prove to be more difficult to explain to customers and to implement
4. Limit the number of VHRs per road segment	<ul style="list-style-type: none"> - Would restrict the total number of VHRs, but allow for additional VHRs in some areas - Would address density in neighborhoods - Limits density in dense neighborhoods and rural areas - May limit density along long roadways more severely than in neighborhoods with a traditional grid system 	<ul style="list-style-type: none"> - Staff would need to compile and maintain a database with road segments - There are 1528 road segments in the County' portion of the basin. They range in length from 3 to 39,721 feet. There are currently VHRs along 463 road segments ranging in length from 100 to 7,917 feet. - Road segments vary substantially; they are very short, very long, very straight, very curvy and spatially located very far or very close to each other. - This may be a more difficult concept to communicate to customers
5. Limit the number of VHRs by separation distance (i.e. 300 foot buffer)	<ul style="list-style-type: none"> - Would restrict the total number of VHRs, but allow for additional VHRs in some less dense areas - Would address density in neighborhoods - Addresses clusters of where VHRs are immediately adjacent 	<ul style="list-style-type: none"> - Staff would need to compile and maintain a database with all VHRs and be able to apply a buffer to each
6. Limit the number of large VHRs, such as those allowing occupancy over 12, by a greater separation distance (i.e. 1,000 foot buffer)	<ul style="list-style-type: none"> - Would further restrict the large "mega-mansion" VHRs, but allow for additional VHRs in some less dense areas - Addresses clusters of where VHRs are immediately adjacent 	<ul style="list-style-type: none"> - Staff would need to compile and maintain a database with all VHRs and be able to apply a buffer to each - The Board should direct staff on the appropriate buffer to be used.
7. Limit the total number of large VHRs, such as those allowing occupancy over 12 (i.e cap of 10)	<ul style="list-style-type: none"> - Would further restrict the large "mega-mansion" VHRs - Addresses concern with development of large residential structures for sole use as a vacation home 	<ul style="list-style-type: none"> - Staff would need to track the number of total permits daily to ensure that permits over the cap are not issued. - Once the cap is reached, no new permits would be issued until existing permits were revoked or not renewed.

Other Considerations

For any of the options listed above, staff recommends several additional policies in order to apply the restrictions fairly and to achieve the Board's goals.

1. Restrictions in the Tahoe Basin only - Currently, there are 933 permitted Vacation Home Rentals in El Dorado County. Of these, 863 are located in the Tahoe Basin. Because the concentration and total number of VHRs has not been presented as an issue on the West slope, it is recommended that any chosen options be applied only to the Tahoe Basin.

2. Grandfathering and Pipeline – It is recommended that the County does not take away the ability of current VHR permit holders, who are actively operating within the current rules (current permit, valid business license, timely remittance of Transient Occupancy Tax, etc.) and instead allow any VHRs above any Board-set limit to the number or location of VHRs to continue operating their units regardless of buffers or other restrictions. If a new VHR permit is required due to expiration of the permit without timely renewal, if the property changes ownership, or in any other circumstance that causes the VHR to discontinue operation, the new regulations would then apply. These grandfathered units would be permitted only to the current owner, as permits would not be transferrable to another location or to a new owner of the property.

3. Abandonment of Use – It is also recommended that the County include a new abandonment of use clause should any restrictions on the number or density of VHRs be pursued. There is some concern that those with the means to do so would apply and be issued a VHR permit without the intention of using their home as a VHR so that a neighbor would not be able to be issued a permit. It is recommended that with each permit renewal, the owner provide proof that the VHR has been used in order to continue with permit renewal. The Board could choose to not include such a provision, but it should be understood that this may lead to policies that are effectively more restrictive than intended or as it appears on its face.

RECOMMENDED NEXT STEPS

Staff is recommending the Board:

1. Direct staff to bring back discussion topics and potential modifications to the VHR Ordinance in the near future, and on an as needed basis thereafter;
2. Provide direction to staff on which, if any, option(s) for reducing number or density of VHRs in the Tahoe Basin the Board would like staff to pursue; and
3. Return to the Board within six months with a contract for Host Compliance, or similar vendor, to assist with the identification of unpermitted VHRs (currently estimated at 800) and a request for additional staffing to process the associated code enforcement and planning duties that will be required to bring the unpermitted VRHs into compliance.