



## Legislation Details (With Text)

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**File created:** 10/30/2020      **In control:** Board of Supervisors

**On agenda:** 12/2/2020      **Final action:** 12/2/2020

**Title:** Planning and Building Department recommending the Board Approve the Final Passage (Second Reading) of Ordinance 5135 amending Title 5 - County Business License Ordinance of the El Dorado County Ordinance Code, Chapter 5.56 - Vacation Home Rentals, making clarifying updates to the code for the purpose of program implementation and introducing a cap of 900 permits total in the Tahoe Basin. (Cont. 11/17/2020, Item 35)

FUNDING: N/A

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A2 - 5.56 VHR Ordinance Revisions Updated, 2. A - 5.56 VHR Ordinance Revisions, 3. B - Summary Ordinance, 4. C - Counsel Approval, 5. D - VHR Presentation, 6. Public Comment BOS Rcvd 11-13-2020, 7. Public Comment BOS Rcvd 11-16-2020, 8. Public Comment BOS Rcvd 11-17-2020, 9. Public Comment BOS Rcvd 11-19-2020 to 11-24-2020, 10. Public Comment BOS Rcvd 12-1-2020, 11. Proof of Publication, 12. Executed Ordinance 5135, 13. Proof of Publication-Mt Democrat (Summary of Proposed Ordinance), 14. Proof of Publication-Tahoe Daily Tribune (Summary of Proposed Ordinance), 15. Proof of Publication-Georgetown Gazette (Summary of Proposed Ordinance)

Date	Ver.	Action By	Action	Result
12/2/2020	2	Board of Supervisors	Approved	Pass
11/17/2020	1	Board of Supervisors	Approved	Pass
11/17/2020	1	Board of Supervisors	Not Approved (See Minutes)	

Planning and Building Department recommending the Board Approve the **Final Passage** (Second Reading) of Ordinance **5135** amending Title 5 - County Business License Ordinance of the El Dorado County Ordinance Code, Chapter 5.56 - Vacation Home Rentals, making clarifying updates to the code for the purpose of program implementation and introducing a cap of 900 permits total in the Tahoe Basin. (Cont. 11/17/2020, Item 35)

**FUNDING:** N/A

### DISCUSSION / BACKGROUND

On November 17, 2020, the Board met and Continued Ordinance 5135 to December 2, 2020 for Final Passage (Second Reading).

At the November 5, 2019 meeting of the Board of Supervisors, staff from Planning and Building and the Chief Administrative Office provided an update on the implementation of Chapter 5.56 of the County Code of Ordinances, Vacation Home Rentals (VHR Ordinance). Staff also provided options for reducing the number or density of VHRs in the Tahoe Basin, presented conceptual changes to the Ordinance to streamline permitting and enforcement, and made the Board aware of recent developments from the Governing Board of the Tahoe Regional Planning Agency (TRPA).

At that meeting, the Board discussed the option of directing staff to bring forward an Urgency Ordinance to put a cap on the number of permits in the Tahoe Basin, in order to allow staff to study additional means of addressing some of the locational criteria as required by TRPA. As approved by TRPA in October 2019, TRPA's Residential Allocation Performance Review System is now linked to local jurisdiction performance on measures to address neighborhood compatibility through short-term rental (STR) location, operations and enforcement. Ultimately, the Board approved a motion directing staff to return with updated information, since the new TRPA direction introduced an additional set of issues for staff to consider.

Two Virtual Tahoe Town Halls were hosted by Supervisor Novasel and attended by staff, the first on May 13, 2020, and the second on June 10, 2020. The purpose of these meetings was to provide background on the VHR program in El Dorado County, provide some context for the TRPA requirements and options for compliance, and to discuss location and density restriction options for the Tahoe Basin.

At the conclusion of the first meeting, participants were asked to participate in a Survey Monkey Questionnaire to solicit feedback. The questionnaire was sent to our contacts from the sign-in sheets from previous meetings and our list of VHR owners, operators, and local contacts, and resulted in 181 responses. When asked about a cap on the total number of VHRs, responses were split down the middle, with approximately 47% in support and 46% in opposition. When asked about the total number of a potential cap, the majority indicated that they do not support any type of cap (34%). Of the remaining respondents, most indicated that they would prefer a number of VHRs lower than the current number (29%). Twenty percent (20%) said they would prefer a number similar to what is existing, and 17% said a higher number.

Staff also re-examined the methods other cities and counties have used to address their issues with the number and density of VHRs. Although there are a few that have implemented separation distance requirements (buffers) or limited the number of VHRs by street segment or neighborhood, the majority have chosen a simple cap on the total number. Staff consulted with Host Compliance on this issue as well in order to gain some insight on industry best practices. Host Compliance indicated that most cities and Counties restrict VHRs through zoning, or institute a cap.

Over the preceding months, the Planning and Building Department has been working to improve enforcement. Staff and the Board have continuously heard, from proponents of VHRs as well as from critics, that enforcement of the rules and regulations is of the utmost importance. Complaints from the public continue to center around the availability and timeliness of enforcement efforts.

Due to the combination of public feedback on this issue, the TRPA requirements, and the intent of staff to focus on further improvements to enforcement, staff is recommending that the Board approve a cap on the number of permits in the unincorporated areas of El Dorado County in the Tahoe Basin at 1,050. This number represents approximately 12% of the total number of existing residential parcels and developable lots in the basin. Currently, there are 591 active permitted VHRs in the unincorporated areas of the basin and 135 in process (for a total of 726).

This cap would restrict operation of VHRs in the basin, satisfying the TRPA requirements for neighborhood compatibility. As written, the ordinance would allow staff to establish a waiting list for those wishing to apply for a permit once the cap has been reached. A provision that requires proof of use of the permit is included in order to preclude individuals from artificially increasing the number in

order to prevent any more permits to be issued. It also includes an additional enforcement section to prevent those that have been found to be operating without a permit from applying for a permit for one year in order to disincentivize illegal operation. Should the Board approve the Ordinance, it is recommended that staff return to the Board after one year for an update on progress and with the potential to extend the cap or to consider other solutions. This would allow staff to evaluate other potential solutions, such as instituting a separation distance between VHRs, and would allow staff to focus on refining enforcement methods.

In addition, staff has included in the ordinance revisions in order to provide clarity to staff, applicants, VHR operators, and the public and to streamline VHR Ordinance implementation and processing of VHR applications. These changes include clarifying that a change in ownership requires a new VHR permit; new 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.

### **ALTERNATIVES**

The Board could choose to retain the current ordinance, approve a portion of the recommended amendments, or make additional recommendations.

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

Treasurer-Tax Collector, County Counsel, Planning and Building, Sheriff's Office, Fire Districts

### **CAO RECOMMENDATION**

Approve as recommended.

### **FINANCIAL IMPACT**

There are no immediate financial impacts associated with approval of this item. The limit on permits may result in a decrease in permit revenue, however, since the cap is above the current number of permits in effect this is not anticipated to result in substantial financial impact. Total costs of permitting and enforcement are continuing to be monitored and analyzed over the next year. Staff will provide the Board with recommendations for cost recovery, which may include increasing permit fees.

### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

Obtain the Chair's signature on the summary ordinance and publish in the newspaper no less than 5 days prior to Final Passage.

Publish the summary ordinance to include the final Board vote within 15 days after Final Passage.

Send the full ordinance to Municode for codification following Final Passage.

### **STRATEGIC PLAN COMPONENT**

Good Governance

### **CONTACT**

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