



Mail
PO Box 5310
Stateline, NV 89449-5310

Location
128 Market Street
Stateline, NV 89449

Contact
Phone: 775-588-4547
Fax: 775-588-4527
www.trpa.org

STAFF REPORT

Date: August 7, 2019

To: Short-Term Rental Neighborhood Compatibility Working Group

From: TRPA Staff

Subject: Review the Draft Performance Review System Code Amendment and Short-Term Rental Neighborhood Compatibility Guidelines

Summary and Staff Recommendation:

The Working Group is asked to: 1) review and provide input on the draft Performance Review System Code Amendment (Code Amendment) and Short-Term Rental (STR) Neighborhood Compatibility Guidelines (Guidelines); and 2) direct staff to make final edits to the Code Amendment and return to the Working Group in September for consideration of a recommendation to forward the final Code Amendment and Guidelines to the Tahoe Regional Planning Agency (TRPA) Advisory Planning Commission, Regional Plan Implementation Committee, and Governing Board for adoption by the end of the calendar year (December 2019).

Background:

On April 24, 2019, prior to the TRPA Governing Board distribution of the 2019 and 2020 residential allocations to local jurisdictions, the Local Government and Housing Committee (Committee) voted to develop a code amendment to make STR neighborhood compatibility a third criterion of the Performance Review System for the future release of residential allocations and to bring the amendment before the Governing Board by the end of the calendar year (December 2019).

On June 12, 2019, the Committee directed TRPA staff to move forward with implementation of the Short-Term Rental Neighborhood Compatibility Work Program (Work Program), including the formation of a Working Group that includes committee members, representatives from neighborhood and environmental groups, the real estate community, the building industry, and the community in general. The Working Group is intended to ensure stakeholder and public interest is represented and considered throughout the process. The Working Group objective is to develop a STR neighborhood compatibility code amendment and guidelines that will further implementation of Regional Plan Goals and Policies and support environmental threshold maintenance and attainment. The Work Program and information on the Working Group is available at: www.trpa.org/short-term-rental-neighborhood-compatibility.

On June 12, 2019, members of the Working Group and public identified examples of STR Neighborhood Compatibility Best Practices, including locational, operational, and enforcement requirements, that could be included in local jurisdiction STR neighborhood compatibility programs. This list has been included in the updated version of the *Local Government Activities Related to Vacation Home Rentals in the Lake Tahoe Basin Report (2019)*.

On July 17, 2019, the Working Group reviewed and provided input on an updated draft of the *Local Government Activities Related to Vacation Home Rentals in the Lake Tahoe Basin Report* (Report). The Report includes the best practices developed at the Committee meeting on June 12, 2019, a summary of best practices being implemented or under consideration at the local level, and a summary of current local jurisdiction STR programs. The Report has since been finalized and is now available on the Working Group website (www.trpa.org/short-term-rental-neighborhood-compatibility), along with additional information on local jurisdiction STR permitting, enforcement, and educational programs.

On August 14, 2019, the Working Group will be asked to review and provide input on the draft Code Amendment and Guidelines. The draft Code Amendment adds a third criterion to the Performance Review System. The Performance Review System (TRPA Code, Section 50.5) currently requires residential allocation deductions if a local jurisdiction does not score 90 percent or greater on:

Criterion 1: Annual Residential Permit Review and Code Compliance Audit

Criterion 2: Lake Tahoe Total Maximum Daily Load (TMDL) Implementation

The proposed Code amendment would require TRPA also deduct residential allocations if a local jurisdiction does not achieve a score of 90 percent or greater based on the proposed STR Neighborhood Compatibility Guidelines. The draft Code Amendment is provided as Attachment A.

TRPA staff developed the draft Guidelines using the best management practices, including locational, operational, and enforcement requirements, for STR neighborhood compatibility developed by the Working Group and tied them to Regional Plan Goals and Policies and environmental threshold standards categories. As directed by Working Group members, proposed numerical values for scoring purposes have been included.

The draft Guidelines require each jurisdiction have a locational, operational, and enforcement STR neighborhood compatibility component. The Guidelines include a list of best management practices that local jurisdictions can tailor to their own unique circumstances. The draft Guidelines have been developed as follows:

1) Locational

The locational component requires local jurisdictions demonstrate that STRs will be located consistent with land uses and the transportation goals in the Regional Plan and through policies that address issues such as the over saturation (“clustering”) of STRs and the construction of large STRs in residential neighborhoods.

2) Operational

The operational component requires local jurisdictions demonstrate that they have an ordinance in place that addresses, at a minimum, noise, occupancy, parking, refuse, defensible space, water quality, public health and safety, public/visitor education and other program elements, such as on-line permitting and annual renewal/registration.

3) Enforcement

The enforcement component requires local jurisdictions demonstrate that they have a program in place for enforcing the locational and operational STR requirements, bringing illegal STRs into conformance, and addressing “bad actors.”

The draft Guidelines are provided as Attachment B.

Prior to applying the Performance Review System for the distribution of residential allocations and convening the Performance Review Committee, which is a Committee convened every two years that consists of local jurisdiction and TRPA staff and is tasked with ensuring the Performance Review System is applied appropriately, the Agency anticipates giving local jurisdictions an opportunity to provide a written response as to how they are managing STR neighborhood compatibility based on the Guidelines.

Contact Information:

For questions regarding this agenda item, please contact Brandy McMahon, AICP, Local Government Coordinator, at (775) 589-5274 or bmcMahon@trpa.org.

Attachments:

- A. Draft Performance Review System Code Amendment
- B. Draft Short-Term Rental Neighborhood Compatibility Guidelines

Attachment A

Draft Performance Review System Code Amendment

Draft STR Neighborhood Compatibility Code Language Version 1 – 8/7/2019

Allocation Performance:

Pursuant to TRPA Code, Section 50.5.2, no jurisdiction shall receive more allocations than the maximum base allocations or fewer allocations than the minimum as shown in Table 1 below.

Jurisdiction	Minimum Allocations with Deductions	Deduction Increments	Maximum Base Allocations
Douglas County	2	2	10
El Dorado County	8	5.5	30
Placer County	11	6.5	37
City of South Lake Tahoe	10	5.75	33
Washoe County	3	1.75	10
Total	34		120

*Table 50.5.2-2 in the TRPA Code of Ordinances.

Notes:

- 1) One deduction increment equals the number of allocations shown for individual jurisdictions. If the final allocation results in a decimal ending in 0.5 or higher the allocation will be rounded up to the nearest whole number, if the decimal is below 0.5 the allocation will be rounded down to the nearest whole number.
- 2) Allocations not disturbed under the Performance Review System are assigned to TRPA's residential allocation incentive pool.

The base allocation for each jurisdiction may be awarded or reduced by the PRC as follows:

- 1) Total Maximum Daily Load Compliance
 - a. A jurisdiction shall receive their base allocation for achieving above 90 percent or greater conformance with State approved annual Lake Clarity Credit targets; or
 - b. A jurisdiction shall be penalized one increment of deduction for less than 90 percent to 75 percent conformance with State approved annual Lake Clarity Credit targets; or
 - c. A jurisdiction shall be penalized two increments of deduction for less than 75 percent conformance with State approved annual Lake Clarity Credit targets.
- 2) Permit Monitoring and Compliance
 - a. A jurisdiction shall receive its base allocation for an average score of 90 percent or greater for both the project review portion and the compliance portion of the audit; or
 - b. A jurisdiction shall be penalized one increment of deduction for average audit scores for both the project review portion and the compliance portion of the audit between 75 and 90 percent.
 - c. A jurisdiction shall be penalized two increments of deduction for average audit scores for both the project review portion and the compliance portion of the audit below 75 percent.

The **staff proposed new Short-Term Rental Neighborhood Compatibility Code language** reads as follows:

3) Short Term Rental Neighborhood Compatibility

- a. A jurisdiction shall receive its base allocation for a score of 90 percent or greater based on short-term rental neighborhood compatibility guidelines established by TRPA that address short-term rental location, operations, and enforcement; or
- b. A jurisdiction shall be penalized one increment of deduction for a short-term rental neighborhood compatibility score between 75 and 90 percent; or
- c. A jurisdiction shall be penalized two increments of deduction for a short-term rental neighborhood compatibility score below 75 percent.

Attachment B

Draft Short-Term Rental Neighborhood Compatibility Guidelines

Draft Tahoe Regional Planning Agency Short-Term Rental Neighborhood Compatibility Guidelines for Local Jurisdictions – Version 2
8/7/2019

These Guidelines are to be used by the Tahoe Regional Planning Agency (TRPA) when evaluating local jurisdiction Short-Term Rental Neighborhood Compatibility programs during the application of the Performance Review System (TRPA Code, Section 50.5) for the distribution of residential allocations in the Tahoe Region.

Local jurisdiction: _____ Date: _____ Prepared by: _____

DRAFT LOCAL JURISDICTION SHORT-TERM RENTAL NEIGHBORHOOD COMPATIBILITY GUIDELINES				
Regional Plan Goals & Policies	STR Neighborhood Compatibility Best Practices*	Local Jurisdiction Response <i>(to be provided before convening PRC**)</i>	Points (Max.) TBD by Working Group	Points Awarded TBD by TRPA/PRC
LOCATIONAL				
<p>Guidance: To receive 30 points, a local jurisdiction must demonstrate that STRs will be located consistent with: 1) Regional Plan Land Use Goals and Policies, including directing STRs towards Town Centers, commercial areas, and/or near regional recreational amenities (10 points) and through policies that address issues such as the over saturation (“clustering”) of STRs and the construction of large STRs in residential neighborhoods (10 points); and 2) Regional Plan Transportation Goals and Policies, including directing STRs to areas where alternative transportation options (bike/pedestrian trails and public transit) are available (10 points). Examples of best practices that a local jurisdiction may implement to address the locational component are provided below.</p>				
<p>Land Use Element</p> <p>LU-1.3 The Plan shall seek to maintain a balance between economic/social health and the environment.</p> <p>LU-2.4 Existing Development patterns in residential neighborhoods outside of centers & environmentally-sensitive lands should be maintained.</p> <p>LU-3.3 Development is preferred and directed toward Town Centers. (see RP for characteristics)</p> <p>Transportation Element</p> <p>Goal T-1 Promote walkable mixed-use centers, transportation enhancements and environmental improvements that increase the viability of transit systems.</p> <p>Goal T-2 Encourage bicycle and pedestrian usage as viable and significant modes of transportation at Lake Tahoe.</p> <p>Housing Subelement</p> <p>Goal HS-1 Promote housing opportunities for full-time and seasonal residents as well as workers employed within the region.</p>	<p>Land Use (10 points)</p> <ol style="list-style-type: none"> 1. Locate STRs within or near Town Centers, commercial areas, and/or near regional amenities, such as ski resorts <i>(Air Quality & Noise)</i> <p>Residential Compatibility (10 points)</p> <ol style="list-style-type: none"> 2. Only allow STR use in residential areas if home is occupied by a primary resident the majority of the year (make STRs an accessory use) <i>(Noise)</i> 3. Limit the size of STRs (consider requiring a special use permit for large STRs, prohibit the use of large new homes with 4-5 bedrooms as STRs through a deed restriction, and/or require a business license for large STRs) <i>(Air Quality, Noise & Soils)</i> 4. Limit the total number of STRs in each jurisdiction (ratio of occupied housing to STRs, first come/first serve, or by lottery) <i>(Air Quality & Noise)</i> 5. Analyze STR saturation to determine heavily impacted neighborhoods <i>(Air Quality & Noise)</i> 6. Limit the number of STRs in each neighborhood <i>(Air Quality & Noise)</i> 7. Establish a waiting period after home construction or sale for STR permit eligibility (except in Town Centers) <i>(Air Quality & Noise)</i> 8. Establish a ratio of full-time to short-term rentals <i>(Noise)</i> 9. Require STRs be spaced out, such as limiting no more than one STR per 500 feet, to address clustering <i>(Air Quality & Noise)</i> 10. Limit the number of STRs per parcel <i>(Air Quality & Noise)</i> 11. Require a two-day minimum stay for STRs to lessen impact of move-ins and move-outs <i>(Air Quality)</i> 12. Cap the number of nights per year a unit may be rented as an STR, such as 30 days per year <i>(Air Quality & Noise)</i> 		<p>30 points (max)</p>	

	<p>13. Cap the number of times an STR may be rented, such as four times per month (Air Quality & Noise)</p> <p>Transportation (10 points)</p> <p>14. Only allow STRs within ¼ mile of public transit and bike/pedestrian trails and amenities (Air Quality & Noise)</p> <p>15. Use TOT collected from STRs to fund transportation projects that reduce vehicle miles traveled (VMT) (Air Quality & Noise)</p> <p>Other</p> <p>16. Create a working group to develop policies and programs for managing STRs and implement the policies and programs they develop</p>			
OPERATIONAL				
<p>Guidance: To receive 40 points, a local jurisdiction must demonstrate that they have an ordinance in place that addresses, at a minimum, noise (2.5 points), occupancy (2.5 points), parking (2.5 points), refuse (2.5 points), defensible space (2.5 points), water quality (2.5), public health and safety (5 points), public/visitor education (10 points), and other program elements that will further STR neighborhood Compatibility (10 points). Examples of best practices that a local jurisdiction may implement to address the operational component are provided below.</p>				
<p>Noise Subelement</p>	<p>Noise (2.5 points)</p>			
<p>Goal N-2 Community Noise Equivalent Levels shall be attained and maintained.</p>	<p>1. Establish quiet hours (10:00 p.m. to 8:00 a.m.) (Noise)</p>			
<p>Natural Hazards Subelement</p>	<p>Occupancy (2.5 points)</p>			
<p>NH-1.3 Inform residents and visitors of the wildfire hazard associated with occupancy in the region.</p>	<p>2. Establish occupancy limits (limit the number of visitors by bedrooms, such as 2 per bedroom, unless under 5 years of age, and available parking) (Noise & Vegetation)</p>			
<p>Water Quality Subelement</p>	<p>Parking (2.5 points)</p>			
<p>WQ – 3.12 Projects shall be required to meet TRPA BMP requirements as a condition of approval for all projects.</p>	<p>3. Require adequate on-site parking (Soils)</p> <p>4. Require snow removal (Soils)</p>			
<p>Wildlife Subelement</p>	<p>Refuse (2.5 points)</p>			
<p>WL-1.5 Encourage local governments to develop and enforce an urban bear strategy addressing bear resistant solid waste facilities and related matters within their area plans.</p>	<p>5. Require proper garbage containment, such as bear boxes and trash service (Wildlife)</p> <p>Defensible Space (2.5 points)</p> <p>6. Require a defensible space inspection (Vegetation)</p>			
<p>Soils Subelement</p>	<p>Water Quality (2.5 points)</p>			
<p>Goal S-1 Minimize soil erosion and the loss of soil productivity.</p>	<p>7. Require water quality Best Management Practices be installed/recertified to be eligible for an STR permit (Water Quality & Soils)</p> <p>8. Require STRs mitigate all excess coverage (Water Quality)</p> <p>Public Health and Safety (5 points)</p> <p>9. Require public health and safety inspections for new permits and permit renewals (require appropriate handrails, adequate electrical for hot tubs, CO2 and smoke detectors, etc.)</p> <p>10. Limit the total number of STR permits based on Emergency Medical Services, Fire, and Law Enforcement resources & availability (Noise & Vegetation)</p>		<p>40 points (max)</p>	

	<p>Education (10 points)</p> <ol style="list-style-type: none"> 11. Provide education about being a good neighbor, fire safety, Lake Tahoe stewardship, Geotourism, parking, and public transportation options (Noise, Vegetation, Soils, Wildlife & Recreation) 12. Require interior/exterior signage with permit information and regulations (Noise, Vegetation, Soils, Wildlife, Air Quality & Recreation) 13. Require permit numbers be on all STR advertisements 14. Require STR permit holders/renters to read rules and sign disclaimer (Noise, Vegetation, Soils, Wildlife, Air Quality & Recreation) <p>Other (10 points)</p> <ol style="list-style-type: none"> 15. Require an STR permit and annual renewal 16. Provide a web-based permitting service and annual renewal service 17. Require permit fees, inspection fees, & annual renewal fees 18. Require Transit Occupancy Tax (TOT) registration 19. Require STR permit holders have insurance that is specifically for STRs (Vegetation) 20. Develop STR permit applications that require applicants to disclose if HOA/CC&Rs prohibit STRs 21. Require a full-time certified local contact (or professional management) that is available anytime an STR is occupied (Noise, Vegetation, Soils, Wildlife, Air Quality & Recreation) 22. Require on-site professional management (Noise, Vegetation, Soils, Wildlife, Air Quality & Recreation) 23. Grant hardship deferrals for full-time hosted/shared STRs (consider fee discounts, permit exemptions, etc.) 24. Create a working group to develop policies and programs for managing STRs and implement the policies and programs they develop 			
ENFORCEMENT				
<p>Guidance: To receive 30 points, a local jurisdiction must demonstrate that that they have an implementation program in place for enforcing locational and operational STR requirements, including bringing illegal STRs into conformance and addressing “bad actors”, (10 points) and adequate funding (10 points), penalties (5 points), and education (5 points). Examples of best practices that a local jurisdiction may implement to address the enforcement component are provided below.</p>				
<p>Include a program for enforcing STR rules and regulations and furthering implementation of the above Regional Plan Goals & Policies.</p>	<p>Implementation (10 points)</p> <ol style="list-style-type: none"> 1. Require a full-time certified local contact (or professional management) that is available anytime an STR is occupied (Noise, Soils, Vegetation & Wildlife) 2. Provide a 24 hour/7 day a week enforcement hotline (Noise, Soils, Vegetation & Wildlife) 3. Utilize a rental activity monitoring service, such as Host Compliance, to identify STRs that do not have permits/certificates (Noise, Soils, Vegetation & Wildlife) 4. Prohibit (repeat offenders) from applying for additional STR permits (Noise, Soils, Vegetation & Wildlife) 5. Provide a web-based format for reporting STR violations (Noise, Soils, Vegetation & Wildlife) 6. Only allow permanent residents to operate STRs (Noise, Soils, Vegetation & Wildlife) 7. Grant hardship deferrals for full-time hosted/shared STRs (consider fee discounts, permit exemptions, etc.) (Noise, Soils, Vegetation & Wildlife) 		<p>30 points (max)</p>	

	<p>Funding (10 points)</p> <p>8. Use permit fees, TOT, and money generated from fines to fund STR code enforcement (Noise, Soils, Vegetation & Wildlife)</p> <p>9. Increase fees for larger homes to fund additional enforcement costs (Noise, Soils, Vegetation & Wildlife)</p> <p>10. Make sure adequate cost recovery is built into STR program to fund code enforcement staff</p> <p>Education (5 points)</p> <p>11. Require interior/exterior signage with local contact name/phone number (Noise, Soils, Vegetation & Wildlife)</p> <p>12. Require permit numbers be on all STR advertisements</p> <p>13. Provide education about being a good neighbor, fire safety, Lake Tahoe stewardship, Geotourism, parking, and public transportation options (Noise, Vegetation, Soils, Wildlife & Recreation)</p> <p>14. Track and report complaints (type of complaint, location, response time, resolution, number of complaints, etc.) (Noise, Soils, Vegetation & Wildlife)</p> <p>Penalties (5 points)</p> <p>15. Revoke STR permits for repeat violators or for STRs that do not meet public health and safety standards (Noise, Soils, Vegetation & Wildlife)</p> <p>16. Increase violation fines for the STR permit holder/property owner and/or visitors (Noise, Soils, Vegetation & Wildlife)</p> <p>17. Lien properties if STR violation fines have not been paid (Noise, Soils, Vegetation & Wildlife)</p> <p>Other</p> <p>18. Create a working group to develop policies and programs for managing STRs and implement the policies and programs they develop</p>			
TOTAL			100 points (max)	

*() Includes environmental threshold standards categories that may benefit from the best practice.

**Every two years, TRPA convenes the Performance Review Committee (PRC), a Committee made up of one TRPA staff member and one staff member from each local jurisdiction, to review the Performance Review System and ensure the provisions of TRPA Code, Chapter 50, have been applied correctly and provide a recommendation to TRPA's Advisory Planning Commission and Governing Board regarding the distribution of residential allocations to the local jurisdictions.