

Ordinance No. 2005- 1117

SUMMARY

AN ORDINANCE CREATING CHAPTER 5.40 OF DOUGLAS COUNTY CODE
REGULATING VACATION HOME RENTALS IN THE TAHOE TOWNSHIP

TITLE

AN ORDINANCE CREATING CHAPTER 5.40 OF THE DOUGLAS COUNTY CODE
REGULATING VACATION RENTALS IN THE TAHOE TOWNSHIP AND PROVIDING
OTHER PROPERLY RELATED MATTERS.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE
OF NEVADA, DO ORDAIN:

SECTION I: Chapter 5.40 is created to read as follows:

Chapter 5.40

VACATION RENTALS IN THE TAHOE TOWNSHIP

Sections:

- 5.40.010 Title.**
- 5.40.020 Purpose of chapter.**
- 5.40.030 Applicability.**
- 5.40.040 Definitions.**
- 5.40.050 Vacation home rental permit requirements.**
- 5.40.060 Agency.**
- 5.40.070 Application for vacation home rental permit.**
- 5.40.080 Application and renewal fees.**
- 5.40.090 Standard permit conditions and additional conditions.**
- 5.40.100 Local contact person.**
- 5.40.110 Violation and penalties.**
- 5.40.120 Procedure for imposition of penalties, suspension or revocation.**
- 5.40.130 Permits and fees not exclusive.**
- 5.40.140 Penalty.**
- 5.40.150 Enforcement of chapter.**
- 5.40.160 Private actions to enforce.**
- 5.40.170 Violations by occupants of vacation rental homes.**

5.40.010 Title.

This chapter shall be referred to as the Lake Tahoe vacation home rental ordinance.

5.40.020 Purpose of chapter.

The board 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 other public personnel.

C. The transitory nature of occupants of vacation homes makes continued enforcement against the occupants difficult.

D. The provisions of this chapter are necessary to prevent the continued burden on county services and impacts on residential neighborhoods posed by vacation rental homes.

E. The area of Douglas County within the jurisdictional boundaries of the Tahoe Regional Planning Agency (“TRPA”) dominates Douglas County’s lodging and recreational use. According to the county’s Master Plan, about 71 percent of the lodging and recreational uses are located in the Tahoe Planning Area. This planning area, located on the western edge of Douglas County, is the primary center of the casino resort industry for the county, accounting for 87 percent of all casino resort land uses and approximately 31 percent of all commercial and office land uses in the county.

The entire Tahoe Basin is under the jurisdiction of the TRPA. TRPA’s jurisdiction includes portions of two states and five counties. TRPA implements its control with the use of the Lake Tahoe Regional Plan, the Community Plans and the Plan Area statements under the Tahoe Regional Planning Compact. TRPA has asked Douglas County to adopt the Lake Tahoe Vacation Home Rental Ordinance and administer the provisions of this chapter.

The area of Douglas County within the boundaries of TRPA has limited opportunities for growth due, in part, to the restrictions imposed by TRPA. Lake Tahoe’s scenic beauty is a significant part of its attraction; maintenance of the natural areas and existing residential neighborhoods is essential to the continued economic strength of the various land uses in this area of the county. It is the intent of the Lake Tahoe Vacation Home Rental ordinance to make the transitory lodging activity permitted by this chapter resemble the existing residential uses made by resident owners and lessees.

Douglas County has previously adopted the Tahoe Basin Regulations, consisting of chapters 20.700 through 20.702 of the Douglas County Development Code recognizing the unique circumstances existing in this portion of the county and found in this subsection.

Confining the application of the Lake Tahoe Vacation Home Rental Ordinance to just the region administered by TRPA will produce a lack of uniform regulation for vacation home rental properties in the balance of the Tahoe Township. The balance of Tahoe Township has significant economic relationships with the region administered by TRPA making uniform regulation of vacation home rental properties throughout Tahoe Township appropriate.

Section 244.357 of NRS permits the enactment and enforcement of police power ordinances and regulations to govern only a limited area in the county where the subject matter makes it

appropriate and reasonable. The ordinance or regulation must specify the limited area within the county to which the ordinance or regulation applies.

The board finds that the Lake Tahoe vacation home rental ordinance, with the limited applicability prescribed in section 5.40.030 of this chapter, is necessary because a general police power ordinance cannot be made applicable.

5.40.030 Applicability.

The provisions of this chapter apply within the unincorporated portions of the county located within the boundaries of the Tahoe Township. All requirements, regulations and standards imposed by this chapter are intended to apply in addition to any other applicable requirements, regulations and standards imposed elsewhere in this code.

5.40.040 Definitions.

The words and phrases used in this chapter have the following meanings:

A. Local contact person: a local property manager, owner, or agent of the owner, who is available to respond to tenant and neighborhood questions or concerns, or any agent of the owner authorized by owner to take remedial action and respond to any violation of this ordinance.

B. Managing agency or agent: a person, firm, or agency representing the owner of the vacation home rental, or a person, firm, or agency owning the vacation home rental.

C. Operator: the person who is proprietor of a transient lodging facility, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character, other than an employee, or where the operator performs his functions through a rental agent, the managing agent or the rental agent has the same duties as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent or the rental agent is considered to be compliance by both.

D. Owner: the person or entity that holds legal or equitable title to the private property.

E. Person: an individual, a group of individuals, or an association, firm, partnership, corporation, or other private entity, public or private as defined in NRS 0.039.

F. Person responsible for event: the owner of the property where the large party, gathering, or event takes place, the person in charge of the premises or the person who organized the event. If the person responsible for the event is a minor, then the parents or guardian of minor will be jointly and severally liable.

G. Rent: the consideration received by a vendor in money, credits, property, or other consideration valued in money for lodgings subject to the tax authorized in Title 3 of the Douglas County Code.

H. Vacation home rental: one or more dwelling units, including either a single-family, detached or multiple-family attached unit, rented for the purpose of overnight lodging for a period of not less than 1 day and not more than 28 days other than ongoing month-to-month tenancy granted to the same renter for the same unit pursuant to ch. 118A of NRS.

5.40.050 Vacation home rental permit requirements.

No owner of a vacation rental may rent that unit for 28 consecutive calendar days or less without a valid vacation home rental permit for that unit issued pursuant to this chapter. A separate permit is required for each vacation home rental. The permit requirements of this

chapter are in addition to any business license, hotel or motel tax registration, or any other permit or licensing requirements. However, at the discretion of the community development director or a designee, the processing of permits required under this chapter may be combined with the processing of business licenses, hotel or motel tax registration, or any other permit or license process administered by the county community development director or a designee. The county community development director or a designee is authorized to prescribe forms and procedures for the processing of permits under this chapter.

5.40.060 Agency.

An owner may retain an agent, representative, or local contact person to comply with the requirements of this chapter, including, without limitation, the filing of an application for a permit, the management of the vacation home rental, and the compliance with the conditions of the permit. The permit must be issued only to the owner of the vacation home rental. The owner of the vacation home rental is responsible for compliance with the provisions of this chapter and the failure of an agent, managing agency, or local contact person to comply with this chapter is non-compliance by the owner, the agent, managing agency and local contact person.

5.40.070 Application for vacation home rental permit.

An application for a permit must be filed with the community development department before use of the property as a vacation home rental. Permit applications for properties presently used as vacation home rental must be filed within 90 days of the effective date of this ordinance upon forms provided by the county and must contain the following information:

- A. The name, address, and telephone number of the owner of the vacation home rental for which the permit is issued.
- B. The name, address, and telephone number of the managing agency, agent or local contact person for the owner of the vacation home rental.
- C. Acknowledgment that all designated bedrooms contain a minimum of 70 square feet and meet all requirements of the current international residential code.
- D. The number of bedrooms (each containing a minimum of 70 square feet), approximate total heated square footage in the vacation home rental, and the maximum number of overnight occupants.
- E. A diagram or photograph of the premises showing and indicating the number and location of designated on-site parking spaces and the maximum number of vehicles allowed for overnight occupants.
- F. Evidence of a valid transient occupancy tax remittance form issued by the county for the vacation home rental. This registration may be filed concurrently with the application for a permit under this chapter.
- G. Acknowledgment that the owner, agent, and local contact person have read all regulations pertaining to the operation of a vacation home rental.
- H. Acknowledgment that the owner, agent, or local contact person has or will post the vacation home rental with the notice required in section 5.40.090.
- I. Other information the community development director or a designee deems reasonably necessary to administer this chapter.

If the information supplied by the property owner on the application for a vacation home rental permit is not consistent with county records, an inspection can be required prior to or after

the issuance of the vacation home rental permit. An inspection fee established by resolution of the board must be charged for any inspection. The County must provide a copy of the application to the general improvement district and homeowners' association in which the proposed vacation home rental property is located having responsibility for streets, parking, trash and refuse pick-up or any combination of these responsibilities.

5.40.080 Application and renewal fees.

An application for a vacation home rental permit must be accompanied by an initial fee established by resolution of the board. An annual renewal fee will be established by resolution of the board which permit holders must pay when renewing their permit issued pursuant to this chapter.

5.40.090 Standard permit conditions and additional conditions.

A. All permits issued pursuant to this chapter are subject to the following standard conditions:

1. The owner must by written agreement, limit overnight occupancy of the vacation home rental to the specific number of occupants designated in the permit, with the number of overnight occupants not to exceed 2 persons per bedroom plus 4 additional persons per residence.

A bedroom is a room (containing a minimum of 70 square feet) that is designed to be used as a sleeping room and for no other primary purpose. The structure must have at least one other habitable room containing a minimum of 120 square feet. Every bedroom shall have an emergency escape or rescue exit and a minimum ceiling height in accord with the current international residential code.

2. The owner must by written agreement, limit the number of vehicles of overnight occupants to the number designated in the permit; with the number of vehicles of overnight occupants not to exceed the number of designated on-site parking spaces. Parking buses on-site or on the street is prohibited.

3. The owner must use best efforts to assure that the occupants or guests of the vacation home rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this code or any state law pertaining to noise or disorderly conduct by notifying the occupants of the rules regarding vacation home rentals and responding when notified that occupants are violating laws regarding their occupancy. It is not intended that the owner, local agent, or contact person act as a peace officer or place himself or herself in harm's way.

4. The owner must, upon notification that occupants or guests of his or her vacation home rental have created unreasonable noise or disturbances, engaged in disorderly conduct or violated provisions of this code or state law pertaining to noise, or disorderly conduct, promptly use best efforts to prevent a recurrence of such conduct by those occupants or guests.

5. The owner of the vacation home rental must comply with and use his or her best efforts to achieve compliance by the occupants with all the provisions of chapters 6.32, 8.12 and 8.14 of this code.

6. The owner of the vacation home rental must post a copy of the permit and a copy of the conditions set forth in this section in a conspicuous place within the vacation home rental.

7. Each vacation home rental must have a clearly visible and legible notice posted within the unit on or adjacent to the front door, containing the following information:

a. The name of the managing agency, agent, property manager, local contact, or owner

of the unit, and a telephone number at which that party may be reached on a 24-hour basis;

b. The maximum number of occupants permitted to stay in the unit;

c. The maximum number of vehicles allowed to be parked on the property;

d. The number and location of on-site parking spaces and the parking rules for seasonal snow removal and emergency vehicle access (in any);

e. The trash pick-up day and notification that trash and refuse must not be left or stored on the exterior of the property except from 6:00 p.m. of the day prior to trash pick-up to 6:00 p.m. on the day designated for trash pick-up unless a bear proof container exists for use by the occupants;

f. Notification that an occupant as a person responsible for an event, may be cited and fined for creating a disturbance or for violating other provisions of this ordinance; and

g. Notification that failure to conform to the parking and occupancy requirements of the structure is a violation of this ordinance.

h. The occupants of a vacation rental home must make the notice required by this paragraph available for inspection by the community development director or a designee, the sheriff's office or the code enforcement officer on a request made by any of these officials.

8. All permissible uses must comply with the county or applicable general improvement district parking, driveway and loading standards, and seasonal snow removal or emergency vehicle access regulations. The owner must provide sufficient parking to meet county on-site parking requirements, including the garage when necessary. All overnight occupant parking must be on site.

9. All residential vacation home rentals shall comply with the following standard:

It is unlawful for any person to maliciously and willfully disturb the peace of any neighborhood, person, or family by loud or unusual noises or by tumultuous and offensive conduct, threatening, traducing, quarreling, challenging to fight, or fighting.

Compliance with this standard shall be in addition to compliance with all other provisions of this code relating to nuisance, peace and safety.

B. The board of county commissioners, at a duly noticed meeting, has the authority to impose additional standard conditions, applicable to vacation home rentals, as necessary to achieve the objectives of this chapter.

C. The community development director or a designee has the authority to impose additional conditions on any permit in the event of any violation of the conditions of the permit or the provisions of this chapter subject to compliance with the procedures set forth in section 5.40.120 of this code.

5.40.100 Local contact person.

Each owner of a vacation home rental must designate a local person, property manager or agent, as a local contact person who has access and authority to assume management of the unit and take remedial measures. An owner of a vacation home rental who resides in the county or within the jurisdictional boundaries of the Tahoe Regional Planning Agency may designate himself as the local contact person. The local contact person is required to respond to the location of the vacation rental home within 1 hour after being notified by the sheriff of the existence of a violation of this chapter or any other provision of this code, or any disturbance requiring immediate remedy or abatement.

5.40.110 Violation and administrative penalties.

- A. The following conduct is a violation for which the permit suspended or revoked;
1. The owner has failed to comply with the standard conditions specified in section 5.40.090(A) of this code; or
 2. The owner has failed to comply with additional conditions imposed pursuant to the provisions of section 5.40.090(B) and (C) of this code; or,
 3. The owner has violated the provisions of this chapter; or
 4. The owner has failed to collect or remit to the county the transient occupancy and lodging taxes as required by Title 3 of this code.
 5. Any false or misleading information supplied in the application process.
- B. The penalties for violations specified in subsection (A) are as follows:
1. For the first violation within any 12 month period, the penalty is a warning notice of violation;
 2. For the second violation within any 12 month period, the penalty is a second warning notice of violation or an administrative fine not to exceed \$500 or both the notice and fine;
 3. For a third violation within any 12 month period, the penalty is a suspension of the permit for a period not to exceed 90 days; and
 4. For a fourth violation within any 12 month period, the permit may be revoked. An owner may petition the board for reinstatement of a revoked permit no sooner than 12 months after revocation.

5.40.120 Procedure for imposition of penalties, suspension and revocation.

Penalties including a notice of violation, must be imposed, and permits must be revoked, in the manner provided in this section.

A. The community development director or a designee, the sheriff's office, or the code enforcement officer must conduct an investigation whenever there is reason to believe that an owner has failed to comply with the provisions of this chapter. The investigation may include an inspection of the premises. Should the investigation reveal substantial evidence to support a finding that a violation occurred, the community development director or a designee, the sheriff's office, or the code enforcement officer must issue written notice of the violation and intention to impose a penalty or revoke the permit. The written notice must be served on the owner, operator, agent managing agency, or local contact person and must specify the facts which constitute substantial evidence to establish grounds for imposition of the penalties or revocation, and specify that the penalties will be imposed or that the permit will be revoked within 15 days from the date the notice is given unless the owner or operator files with the community development director or a designee the fine amount and a request for a hearing before the community development director or a designee

B. If the owner requests a hearing within the time specified in subsection A, the community development director or a designee must serve written notice on the owner and operator, by mail, of the date, time and place for the hearing which must be scheduled not less than 15 days, nor more than 45 days after receipt of the request for a hearing. The community development director or a designee may preside over the hearing or may designate a hearing officer to take evidence and submit proposed findings and recommendations to the community development director or a designee. The community development director or a designee must impose the penalties or revoke the permit upon a finding that a violation has been proved by substantial

evidence, and that the penalty or revocation is consistent with the provision of section 5.40.110 (B) of this code. The hearing must be conducted according to the rules normally applicable to administrative hearings. The community development director or a designee must render a decision within 30 days of the hearing and the decision is appealable to the board. The owner may request and the board may grant a stay of any revocation made pursuant to the provisions of section 5.40.110(B)(4) during the pendency of an administrative appeal to the board.

C. The code enforcement officer may issue citations for violations of this chapter which are misdemeanors.

5.40.130 Permits and fees not exclusive.

Permits and fees required by this chapter are in addition to any license, permit or fee required under any other chapter of this code. The issuance of any permit pursuant to this chapter does not relieve the owner of the obligation to comply with the other provisions of this code pertaining to the use and occupancy of the vacation home rental or the property on which it is located.

5.40.140 Penalty.

Any person violating the provisions of this chapter by operating a vacation home rental without a valid permit is guilty of a misdemeanor.

5.40.150 Enforcement of chapter.

The community development director or a designee is authorized and directed to establish rules and regulations as may from time-to-time be required to carry out the purpose and intent of this chapter. Substantive changes to this ordinance can only be made by the board.

5.40.160 Private actions to enforce.

A. Any person who has suffered, or alleges to have suffered, damage to person or property for a violation of this chapter may bring an action for money damages and any other appropriate relief in a court of competent jurisdiction against the owner, operator, agent, managing agency, local contact person or occupant alleged to have violated this chapter. The prevailing party in this litigation is entitled to recover reasonable litigation costs, including attorney's fees in an amount deemed reasonable by the court.

B. Nothing in this chapter creates any right of action against the county or any of its officers, employees, or agents. The sole purpose and intent of this section is to create a right of action between private parties, entities, and interests, which are or may be impacted or affected by various aspects of vacation home rental within the county.

5.40.170 Violations by occupants of vacation rental homes.

Any violation of the provisions of this chapter is punishable pursuant to chapter 1.08 of this code. Enforcement actions may be brought against occupants of a vacation rental home for violations of this chapter and any other provision of this code notwithstanding that this chapter may also make the owner of the vacation rental home, the local contact person, managing agency or agent or operator responsible for the conduct constituting the violation.

PROPOSED on the 17th day of February, 2005.

PROPOSED by Commissioner Tim Smith.

PASSED on the 17th day of March, 2005.

This Ordinance is effective on the 30th day of March, 2005.

VOTE:	AYES Commissioners	<u>KELLY KITE</u>
		<u>JAMES BAUSHKE</u>
		<u>TIM SMITH</u>
		<u>DOUG JOHNSON</u>
		<u>DAVID BRADY</u>

NAYS Commissioners	<u>none</u>
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ABSENT Commissioners	<u>none</u>
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Kelly D. Kite
 KELLY KITE, CHAIRMAN
 DOUGLAS COUNTY BOARD OF
 COMMISSIONERS

ATTEST:
Barbara J. Reed
 BARBARA J. REED, Clerk

BY: L. Lynn
 CLERK TO THE BOARD