

STR RULES AND COMMON QUESTIONS

A. Task Force Charge

The Short-Term Rental and Amenity Task Force was established by the Board in September 2017 in response to significant increases in member complaints about nuisance and other inappropriate activity, and the lack of effective enforcement. Despite its name, the first tasks in its charter were not directed at short-term rentals, but at analyzing the most wide-spread problems being experienced regardless of source, and determining whether the behavior was governed by existing rules or whether new or clarified rules were needed to address the issues. The task force also addressed the need for enforcement proceedings that were prompt and efficient, and could allow resolution in real time.

As set out in the accompanying document regarding the Quality of Life Rules, the first recommendations by the task force related to amendments to the Private Property Rules and enforcement procedures. These addressed

- Nuisance activity and safety issues experienced by many members,
- The need for prompt, real-time enforcement to address the problem and prevent reoccurrence.

The rules and enforcement procedures adopted apply equally to *all* members, whether the issue relates to a short-term rental or not.

For details about the serious problems and how they were addressed, in a manner that benefits *all* members, see the Quality of Life Rules paper.

The second charge of the task force was to look at typical STR rules in other communities and determine whether additional STR rules were needed at Tahoe Donner based on the requirements of the CC&Rs and the differences with STRs that require specific procedures.

B. STR Rules

The STR Rules primarily enforce already existing obligations of members who choose to rent their homes, or bring enforcement on par with enforcement for violations for all other members.

First, the STR rules require each owner to provide a summary set of the TD nuisance activity rules, prepared by the TD office, to every short-term renter. It is hoped that where renters (as well as owners) are aware of the rules, it is much more likely that there will be compliance and problems avoided at the outset.

This did not add additional obligation as members who rent their homes are already required, under our CC&Rs, to provide Association rules to their renters *and* to ensure that renters comply with the rules.

Second, the rules require registration with contact information for the person the office should contact in the case of a complaint. Owners utilizing a rental management company may designate that company to respond to complaints if desired. The time frame for response is similar to other association rules, but instead of requiring an in-person response as many other associations, TD rules only require a response by phone.

The registration/contact requirement is needed for effective enforcement due to the difference with STRs, i.e. only the owner has the means to contact the short-term renter. Under the CC&Rs, an owner is required to provide up-to-date contact information to the office, so the office will know who to contact when an issue arises. The CC&Rs also require an owner to provide contact information for any long-term renters, again to allow the office to contact the renter as needed when a complaint is made. With respect to short-term renters, the only person who has contact information is the owner who arranged the short-term rental; thus, the office must be able to contact the owner or his designee to resolve any problems.

Third, TD adopted rules governing parking and occupancy, as over-crowding and large groups are source of many of the problems, and to ensure safety. The TD occupancy rules are much more liberal than those of most other communities. Most permit two per bedroom or two per bedroom plus two (or four). TD rules allow two per bedroom plus 4, plus unlimited children 6 and under.

And, finally, the Covenants Committee enforcement proceedings, where a matter proceeds to a hearing (which usually does not occur when the matter can be resolved through a call from the office) are the same whether the situation involves conduct of an owner, guest or short-term renter.

C. The Process

The Task Force included 40 members, but meeting were open to all. The members spent months meeting and discussing the issues and listening to all viewpoints. While the group was disproportionately weighted towards member who engage in STRs, they listened to the problems experienced by other members, and those members listened and discussed ways to resolve the problems with the lightest touch rules possible.

The group also looked at rules from other associations and towns, and got input from realtors and property managers. The inclusive process resulted in recommendations to the Board, which then conducted months of hearings and made changes before adopting final rules.

Many members who STR supported the rules. They wanted a simple, objective list of rules to provide to renters to ensure that renters knew, and thus could follow, the rules. And, many wanted to know of a violation in real time, as a number said that they only found out weeks later when it was too late to address the violation. And, most supported the occupancy limits as reasonable.

In short, STR owners are also, in many instances, part-time residents. Like all of us, they want to enjoy peace and safety when they use their homes, and do not want to interfere with their neighbors' ability to enjoy their properties. The members discussed, listened and reached a compromise to benefit all members. In practice, most have not found the rules onerous. The members who spent considerable time and energy on this project provided benefits to all of us, and the inclusive process, where members truly listened to each other, is a model for resolution of contentious issues.

While there are some members who opposed any rules, including the quality of life rules, the majority of the members supported and benefit reasonable rules.

D. CC&R Requirements

Some have asked about the CC&R provisions related to the rules. The TD STR rules in many respects simply enforce obligations that members already have under the CC&Rs.

Article II, section 3 of the CC&Rs requires that an owner ensure compliance with the Association rules by any renter, stating:

“Owner-lessor shall at all times be responsible for compliance by the Owner's tenant or lessee with all applicable Governing Document provisions during the tenant's/lessee's occupancy and use of the Residence or Condominium.”

Article II, Section 3 of the CC&Rs further requires that an owner must provide a copy of the Association rules or a summary of the rules prepared by the Association to any renter, and ensure compliance.

The STR rules are designed to enforce these obligations, which is one of the primary responsibilities of the Board. And, these CC&R provisions are specific to owners who rent their properties, thus requiring specific rules where needed to enforce these obligations.

Article VIII of the CC&Rs provides that an owner is responsible for preventing nuisance or noxious activities on their property. An owner must prevent noxious activity by the owner, as well as his/her guests or renters.

The full authority for the rules and basis is set out in the Board resolution adopting the rules:

www.tahoedonner.com/wp-content/uploads/2018/07/Tahoe-Donner-Resolution-Short-Term-Rental-Rules.adopted-102718.pdf

