

**Douglas County Board of County Commissioners**

**AGENDA ACTION SHEET**

**Title:** For possible action. Discussion to introduce Ordinance 2018-1520, an ordinance deleting chapter 5.40, Vacation Rentals in the Tahoe Township, from Title 5, and incorporating all of Vacation Rentals in the Tahoe Township into Title 20, Chapter 20.622, of the Douglas County Code, adding fines for un-permitted rentals, amending fines and penalties for violations, amending the revocation and appeal process, and amending section 20.691.230 to define violations of chapter 20.622 as a specific public nuisance, and other properly related matters. First reading. (ref. DA 18-023) (Mimi Moss)

**Recommended Motion:** Introduce Ordinance 2018-1520, an ordinance deleting Chapter 5.40, Vacation Rentals in the Tahoe Township, from Title 5, and incorporating Vacation Rentals in the Tahoe Township into Title 20, Chapter 20.622 of the Douglas County Code, adding fines for un-permitted rentals, amending fines and penalties for violations, amending the revocation and appeal process, and amending section 20.691.230 to define violations of Chapter 20.622 as a specific public nuisance, and other properly related matters.

**Financial Impact:** None

**Prepared by:** Mimi Moss, Director Community Development

**Meeting Date:** August 16, 2018      **Time Required:** 30 Minutes

**Agenda:** Administrative

**Background Information:** This ordinance is brought forward based on direction from the Board at their August 2, 2018 meeting. At that time, the Board considered the first reading of Ordinance No. 2018-1515 which considered changes to the standards of vacation rental permits such as allowing short term rentals Countywide, requiring bear proof containers, adding fines for repeat offenders of the ordinance, and other pertinent provisions. After hearing public comment, the Board directed staff to compile more data and provide greater outreach before introducing the ordinance. In their action, the Board also directed staff to bring forward a new ordinance which only moves Chapter 5.40 of Title 5 into Title 20 for enforcement purposes, and adds a fine of \$5,000 for un-permitted rentals. Staff has also included changes to Chapter 20.691.230 (Public Nuisance), and added language for violations, penalties and fines, revocation, and the appeal process. Staff believe these additional changes are necessary to enforce the existing provisions found in chapter 5.40 that will now become part of Title 20. The changes highlighted in yellow in the attached ordinance indicate where

changes have been made to chapter 5.40. All other text moved into Title 20 mirrors the old chapter 5.40.

**Agenda Item # 3**



**COMMUNITY DEVELOPMENT**  
1594 Esmeralda Avenue, Minden, Nevada 89423

**Mimi Moss**  
**DIRECTOR**

775-782-6201  
FAX: 775-782-6297  
website: www.douglascountynv.gov

Building Divis  
Engineering Divis  
Planning Divis  
Code Enforcen

## MEMORANDUM

DATE: August 16, 2018

TO: Douglas County Board of Commissioners

FROM: Mimi Moss AICP, Director

SUBJECT: Development Application (DA) 18-023, Zoning Text Amendment  
Vacation Home Rentals in Douglas County

### I. REQUEST

For possible action. Discussion on Ordinance No. 2018-1520, an ordinance deleting chapter 5.40, Vacation Rentals in the Tahoe Township, from Title 5, and incorporating all of Vacation Rentals in the Tahoe Township into Title 20, chapter 20.622 of the Douglas County Code, adding a \$5,000 fine for unpermitted rentals, amending fines and penalties for violations, amending the revocation and appeal process, and amending section 20.691.230 to define violations of chapter 20.622 as a specific public nuisance, and other properly related matters.

### II. RECOMMENDATION

Introduce the Ordinance as presented, based on the discussion and findings in the staff report.

### III. BACKGROUND

Currently, Chapter 5.40 which provides the provisions for the permitting of Vacation Home Rentals (VHR's) in the Tahoe Township only, was adopted in 2005. In early 2017, the Board directed staff to consider amendments to the current ordinance as part of the adopted Strategic Plan for the County. Initiative 3.7 of the Strategic Plan states:

“Evaluate the need to update the Vacation Rental Ordinance to include changes in on-line vacation rentals (AirBnB, VRBO, etc.)”

During the past six months, staff has researched other communities that allow vacation rental permits in order to compare standards, processes and enforcement. Staff has also met with community stakeholders on potential changes to the code. In March 2018, the Board of Commissioners provided direction to staff on the potential amendments to the ordinance. More

recently, staff drafted code language and held a public workshop on June 18<sup>th</sup> to solicit comments on the draft code from all interested persons (citizens, owners of property with active vacation rental permits, property managers, homeowner association and general improvement district representatives).

On August 2, 2018, the Board considered the introduction of Ordinance No. 2018-1515 which included similar changes related to moving Chapter 5.40 into Title 20. In that instance, staff also recommended numerous changes to the rental standards, such as allowing the use Countywide. The Board continued the hearing on the ordinance and directed staff to provide more data on the use, and provide greater outreach to the community before moving the item forward. However, the Board also directed staff to bring forward minimal changes to the code section at their August 16<sup>th</sup> meeting that deals with moving Chapter 5.40 into Title 20 for enforcement purposes, and adding a \$5,000 fine for un-permitted vacation rentals. The ordinance under consideration includes those changes, as well as language that deals with penalties and fines, violations, revocations, and appeals of the director's decision. Staff believes these additional changes are necessary to provide the proper enforcement of vacation home rental uses.

#### IV. DISCUSSION

Douglas County Code chapter 20.610 sets the procedures for processing a zoning text amendment. In this instance, staff has initiated the text amendment based on Board direction at their meeting of March 15, 2018 after taking public comment, and their meeting on August 2, 2018 while considering the first reading of Ordinance No. 2018-1515. As directed by the Board on August 2<sup>nd</sup>, the proposed amendments to County Code are summarized below (detailed language is included in the attached draft ordinance):

- Move all of Chapter 5.40 from Volume 1 into Volume II, Title 20, Zoning Section; Identify violation of permit as a Public Nuisance thereby strengthening enforcement
- Add penalties: \$250 per day until compliance; may become special assessment if not paid; maximum \$10,000 in penalties; unpermitted VHR = \$5,000 fine
- Amend suspension and revocation section: 1) no response after written notice = suspension of permit for 90 days; 2) no correction within timeline, or failure to remit penalties within the 10 day period = revocation of permit
- Add Appeal language: Appeals heard by Board of Commissioners

#### Public Comment

Staff received public correspondence regarding proposed changes to the Vacation Home Rental code section when the Board considered Ordinance No. 2018-1515 in its entirety on August 2, 2018. Comments were made part of the record at the August 2, 2018 Board hearing. Staff has not yet received any comments regarding the current changes under consideration.

#### V. FINDINGS FOR A ZONING TEXT AMENDMENT

In order for the ordinance to be adopted, the following findings must be made in the affirmative per DCC 20.610.050 as follows:

A. *That the proposed amendment is consistent with the policies embodied in the adopted Master Plan and the underlying land use designation contained in the land use plan.*

**Staff Response:** Staff can make this finding. The proposed amendment is limited in nature and will not directly affect the consistency of Title 20 with the adopted Master Plan. As outlined in the discussion above, the proposed amendment clarifies or strengthens the existing enforcement provisions of the code, addresses fines, violations, and penalties, and adds an appropriate appeal process.

B. *That the proposed amendment will not be inconsistent with the adequate public facilities policies contained in Douglas County Code, Title 20.*

**Staff Response:** Staff can make this finding. The proposed amendment is consistent with the adequate public facilities policies. Due to the limited nature of the zoning text amendment, there is no impact on public facilities. Vacation Home Rentals are currently allowed within existing residential units.

C. *That the proposed amendment is compatible with the actual and master planned use of the adjacent properties.*

**Staff Response:** Staff can make this finding. The amendment is not site specific and the amendments do not change the nature of the use that is currently allowed within residential neighborhoods in the Tahoe Basin today. The Board had previously made the findings which imposed standards for such transient uses in order to mitigate the impacts to adjacent properties. Clearly, the main issue with such transient use is enforcement of the permit standards and/or conditions. Staff believes the additional enforcement provisions proposed in the draft ordinance will help maintain and improve the integrity of existing neighborhoods.

## VI. CONCLUSION

The proposed zoning text amendment is limited in nature, in that the new language further strengthens the needed enforcement provisions for vacation rental permits to ensure impacts to surrounding properties are minimal. Staff recommends approval of these amendments, as the required findings can be made.

**Attachment:**

1. Draft Ordinance 2018-1520

## Ordinance Number 2018-1520

### Summary

An ordinance deleting chapter 5.40, Vacation Rentals in the Tahoe Township, from Title 5 of the Douglas County Code and incorporating Vacation Rentals in the Tahoe Township into Title 20, chapter 20.622 of the Douglas County Code, adding fines for unpermitted rentals, amending fines and penalties for violations, amending the revocation and appeal process, and amending section 20.691.230, of the Douglas County Code to define violations of chapter 20.622 as a specific public nuisance.

### Title

Ordinance No 2018-1520 an ordinance deleting chapter 5.40, Vacation Rentals in the Tahoe Township, from Title 5, and incorporating all of Vacation Rentals in the Tahoe Township into Title 20, chapter 20.622 of the Douglas County Code, adding fines for unpermitted rentals, amending fines and penalties for violations, amending the revocation and appeal process, and amending section 20.691.230 to define violations of chapter 20.622 as a specific public nuisance, and other properly related matters.

The Board of County Commissioners of County of Douglas in the State of Nevada hereby does ordain as follows:

SECTION I: Chapter 5.40, Vacation Rentals in the Tahoe Township, is deleted in its entirety with the language deleted shown as ~~struck through~~ below:

## TITLE 5

### BUSINESS LICENSES AND REGULATIONS

#### Chapters:

- 5.02 Fictitious Business Names**
- 5.04 Gambling Establishments**
- 5.06 Alarm Device Regulations**
- 5.08 Intoxicating Liquor Sale Licenses**
- 5.12 Outdoor Festivals and Entertainment Events**
- 5.16 Tent Shows and Circuses**
- 5.20 Water Companies**
- 5.24 Traveling Merchants**
- 5.26 Escort Bureaus**
- 5.28 Solicitation of Funds**
- 5.32 Time-Sharing Developments**
- 5.34 Cable Television Franchises**
- 5.36 Adult Characterized Businesses**
- ~~**5.40 Vacation Rentals in the Tahoe Township**~~

### ~~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, renewal, fees and cancellation.~~

#### ~~5.40.090 Standard permit conditions and additional conditions.~~

#### ~~5.40.100 Local contact person.~~

#### ~~5.40.110 Violation and administrative 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. (Ord. 1117, 2005)~~

#### ~~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. (Ord. 1117, 2005)

#### **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. (Ord. 1117, 2005)

#### **5.40.040 Definitions.**

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

A. "Local contact person": A local licensed property manager, owner, or local individual, who resides or has a primary place of business located within Douglas County or the jurisdictional boundaries of the Tahoe Regional Planning Agency, 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. "Overnight": Between the hours of 11 p.m. and 5 a.m.

C. "Owner": The person or entity that holds legal or equitable title to the private property.

D. "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.

~~—— E. "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.~~

~~—— F. "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 chapter 118A of NRS. (Ord. 1355, 2012; Ord. 1117, 2005)~~

~~**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. (Ord. 1117, 2005)~~

~~**5.40.060 Agency:**~~

~~—— An owner may retain a licensed property manager 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. Any property manager must be licensed through the State of Nevada Division of Real Estate, and comply with state law. 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 their agent to comply with this chapter is non-compliance by the owner. (Ord. 1355, 2012; Ord. 1117, 2005)~~

~~**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 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 on-site assigned parking spaces in garages, driveways, or other parking areas.~~

~~—— 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. (Ord. 1355, 2012; Ord. 1117, 2005)~~

#### ~~**5.40.080 Application, renewal, fees and cancellation.**~~

~~—— An application for a vacation home rental permit must be accompanied by an initial fee established by resolution of the board. An issued permit is valid for one calendar year and may be renewed, by the payment of an annual renewal fee, established by resolution of the board only if there have been no changes which would affect the conditions of the permit as required in 5.40.090. If there have been changes that would affect the conditions of the permit, the owner must remit a new application with their renewal fee. If the annual renewal fee is not paid when due, the permit will be cancelled. An owner may reinstate the permit upon paying the reinstatement fee established by resolution of the board. (Ord. 1355, 2012; Ord. 1117, 2005)~~

#### ~~**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 all overnight parking to on-site and assigned parking areas. Except for loading and unloading, parking buses on-site or on the street is prohibited at all times. Daytime on-street parking will be in accordance with local posted parking regulations.~~

~~—— 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, agent, or local contact person act as a peace officer or place him 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. All advertising for the vacation home rental must include the permit number.

8. All advertising for the vacation home rental must include the maximum number of occupancy approved for the permit.

9. 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 agent, local contact person, 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 location of on-site and assigned parking spaces and special information related to 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.

10. 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.

11. 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. (Ord. 1355, 2012; Ord. 1117, 2005)~~

#### ~~**5.40.100 Local contact person.**~~

~~Each owner of a vacation home rental must designate a local contact person who has access and authority to assume management of the unit and take remedial measures. An owner may designate himself as the local contact person. The local contact person is required to reside or have their primary place of business within Douglas County or within the jurisdictional boundaries of the Tahoe Regional Planning Agency and respond to the location 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. (Ord. 1355, 2012; Ord. 1117, 2005)~~

#### ~~**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 and monthly rental reports as required by Title 3 of this code; or~~

~~5. Any false or misleading information supplied in the application process; or~~

~~6. The permit number was not included in all forms of advertisement; or~~

~~7. The occupancy was not included in all forms of advertisement, or the occupancy was not advertised correctly.~~

~~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. (Ord. 1355, 2012; Ord. 1117, 2005)~~

~~———— **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 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 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 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 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 subsection 5.40.110(B) (4) during the pendency of an administrative appeal to the board.~~

~~———— C. The code enforcement officer may refer violations of this chapter to the Douglas County District Attorney's Office for prosecution pursuant to section 1.08 as misdemeanors. (Ord. 1355, 2012; Ord. 1117, 2005)~~

~~———— **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. (Ord. 1117, 2005)~~

~~———— **5.40.140 Penalty.**~~

~~———— Any person violating the provisions of this chapter, or by operating or advertising a vacation home rental without a valid permit is guilty of a misdemeanor. (Ord. 1355, 2012; Ord. 1117, 2005)~~

~~———— **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. (Ord. 1117, 2005)~~

~~\_\_\_\_\_ **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, agent, 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. (Ord. 1355, 2012; Ord. 1117, 2005)~~

~~\_\_\_\_\_ **5.40.170 Violations by occupants of vacation rental homes.**~~

~~\_\_\_\_\_ A. In addition to the penalties set forth in 5.04.110, any violation of the provisions of this chapter is punishable as a misdemeanor pursuant to chapter 1.08.010(A) of this code.~~

~~\_\_\_\_\_ B. The owner may be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this code is committed, continued or permitted by such person and shall be punished accordingly pursuant to 1.08.010(C).~~

~~\_\_\_\_\_ C. 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 responsible for the conduct constituting the violation. (Ord. 1355, 2012; Ord. 117, 2005)~~

SECTION II: A new Chapter 20.622, Vacation Home Rentals in the Tahoe Township, is added with the new language shown underlined below:

## TABLE OF CONTENTS

### TITLE 20

#### CONSOLIDATED DEVELOPMENT CODE

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## Chapter 20.622

### Vacation Rentals in the Tahoe Township

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20.622.010 Title.

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

20.622.020 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 20.622.030 of this chapter, is necessary because a general police power ordinance cannot be made applicable.

**20.622.030 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.

**20.622.040 Definitions.**

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

A. "Local contact person": A local licensed property manager, owner, or local individual, who resides or has a primary place of business located within Douglas County or the jurisdictional boundaries of the Tahoe Regional Planning Agency, 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. "Overnight": Between the hours of 11 p.m. and 5 a.m.

C. "Owner": The person or entity that holds legal or equitable title to the private property.

D. "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.

E. "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.

F. "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 chapter 118A of NRS.

**20.622.050 Vacation home rental permit requirements; Penalty for unpermitted vacation home rental.**

A. 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.

B. Owners of property being operated as an unpermitted vacation home rental in violation of this section 20.622.050 shall be subject to civil penalties in the amount of five thousand dollars (\$5,000). The County may also seek an injunction and/or any other cause of action for violation(s) of this code, including, but not limited to, collection of delinquent tax payments.

**20.622.060 Agency.**

An owner may retain a licensed property manager 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. Any property manager must be licensed through the State of Nevada Division of Real Estate, and comply with state law. 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 their agent to comply with this chapter is non-compliance by the owner.

**20.622.070 Application for vacation home rental permit.**

An application for a permit must be filed with the community development department and a permit issued before the property may be used as a vacation home rental. At a minimum, all permit applications shall 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 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 on-site assigned parking spaces in garages, driveways, or other parking areas.

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 20.622.090.

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.

**20.622.080 Application, renewal, fees and cancellation.**

An application for a vacation home rental permit must be accompanied by an initial fee established by resolution of the board. An issued permit is valid for one calendar year and may be renewed, by the payment of an annual renewal fee, established by resolution of the board only if there have been no changes which would affect the conditions of the permit as required in 20.622.090. If there have been changes that would affect the conditions of the permit, the owner must remit a new application with their renewal fee. If the annual renewal fee is not paid when due, the permit will be cancelled. An owner may

reinstate the permit upon paying the reinstatement fee established by resolution of the board.

**20.622.090 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 all overnight parking to on-site and assigned parking areas. Except for loading and unloading, parking buses on-site or on the street is prohibited at all times. Daytime on-street parking will be in accordance with local posted parking regulations.

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, agent, or local contact person act as a peace officer or place him 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. All advertising for the vacation home rental must include the permit number.

8. All advertising for the vacation home rental must include the maximum number of occupancy approved for the permit.

9. 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 agent, local contact person, 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 location of on-site and assigned parking spaces and special information related to 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.

10. 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.

11. 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 20.622.120 of this code.

### **20.622.100 Local contact person.**

Each owner of a vacation home rental must designate a local contact person who has access and authority to assume management of the unit and take remedial measures. An owner may designate himself as the local contact person. The local contact person is required to reside or have their primary place of business within Douglas County or within the jurisdictional boundaries of the Tahoe Regional Planning Agency and respond to the location 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.

### **20.622.110 Violation and administrative penalties.**

A. The following conduct is a violation for which the permit shall be suspended or revoked:

1. The owner has failed to comply with the standard conditions specified in section 20.622.090(A) of this code;
2. The owner has failed to comply with additional conditions imposed pursuant to the provisions of section 20.622.090(B) and (C) of this code;
3. The owner has violated the provisions of this chapter;
4. The owner has failed to collect or remit to the county the transient occupancy and lodging taxes and monthly rental reports as required by Title 3 of this code;
5. Any false or misleading information supplied in the application process;
6. The permit number was not included in all forms of advertisement;
7. The maximum occupancy was not included in all forms of advertisement, or the occupancy was stated incorrectly; or
8. The placement and maximum number of vehicles permitted on-site is not identified.

### **20.622.120 Procedure for imposition of penalties, suspension and revocation.**

A. Whenever the director or code enforcement officer has reasonable grounds to believe that a violation of section 20.662.110(A), or 20.691.230 has occurred, a written notice of violation shall be served to the owner(s) in accordance with chapters 20.691.250, and 20.691.260.

1. Failure to respond to the written notice within the time frame identified in the notice, or the filing of an Appeal under 20.662.125, will result in a suspension of the permit for a minimum of ninety (90) days by the director.
2. Failure to correct the violation within the time identified in the written notice, or failure to remit the penalties imposed by such notice for a period exceeding 10 days, will result in a revocation of the permit.

B. When necessary to protect life, property or safety, the director may suspend a permit for up to ninety (90) days or until such time that the unsafe condition(s) have been alleviated, whichever is later.

### **20.622.125 Appeal**

Any person affected by a notice of violation pursuant to this chapter shall have the right to appeal to the board of commissioners subject to the following:

A. A notice of appeal must:

1. Be filed with the community development department within 25 calendar days of the date the first notice of violation was mailed and/or served on the property owner or other responsible party;
2. Be submitted in writing;
3. Include a copy of the notice of violation and a statement that the person wishes to appeal;
4. Contain the person's full name and mailing address, legibly printed or typed, and any notice or communication thereafter sent to him at such address shall be conclusively presumed to have been received unless the person has given the department written notice of any change; and
5. Contain a statement setting forth the reasons the person contends that condition of the property does not constitute a nuisance and/or violation of Douglas County Code, and/or why the imposition of civil penalties is not appropriate.

B. The board shall hold a hearing on the appeal within 60 days of filing the notice of appeal with the community development department.

1. The scope of such hearing shall be limited to any or all of the following as may be stated by the person requesting review in the notice of appeal:

- a. There has been a failure of the county to follow the procedures prescribed in this Title and/or chapter, and that such failure has prejudiced the person in respect of some substantial right;
- b. No violation and/or nuisance exists on the premises that is the subject of the notice of violation;
- c. The time for or method of compliance required in the notice is impossible to comply with or, because of circumstances peculiar to the person or property, would work an unreasonable hardship; and/or
- d. The imposition of civil penalties is inappropriate under the circumstances.

2. The appellant shall be accorded the opportunity to provide evidence or a statement in opposition to the notice of violation; and shall be accorded the opportunity to cross-examine any witness presenting testimony.

3. The county shall be accorded the opportunity to present any evidence, argument or statement in support of the notice of violation; and shall be accorded the opportunity to cross-examine any witness presenting such testimony.

C. The board shall adopt findings and conclusions supporting a decision which either:

1. Affirms the notice of violation as issued;
2. Modifies the notice of violation; or
3. Rescinds the notice of violation.

D. The filing of a notice of appeal shall stay all proceedings for correction of the violation and/or abatement of the nuisance until final disposition of the appeal.

E. Upon a final disposition ordering correction of the violation and/or abatement of a nuisance, and unless another period for compliance is provided in the decision, the person responsible for correction and/or abatement shall have a period equal to that specified in the original notice, commencing from the date of the final disposition, in which to correct the violation and/or abate the nuisance prior to further action by the county.

F. The department shall provide a written final disposition to the owner within 3 working days of the appeal hearing by the Board.

### **20.622.130 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.

### **20.622.140 Penalty for violations.**

A. In addition to any other civil remedies set forth in this chapter, the owner, occupant or agent of any lot or premises within the county who permits or allows the existence of a public nuisance as defined in this Title 20, upon any lot or premises owned, occupied or controlled by them, or who violates any provisions of this chapter is subject to the penalties designated in Douglas County Code 1.08.010 which may include criminal prosecution. Each day of any such violation constitutes a separate offense.

B. Enforcement actions may be brought against occupants of a vacation home rental for violations of this chapter and/or any other provision(s) of this code notwithstanding that this chapter may also make the owner of the vacation home rental responsible for the conduct constituting the violation.

C. Each day that the owner of a vacation home rental fails to correct and/or abate any violation of this chapter after the date given in a notice may be subject to a civil penalty of \$500.00 per day, with a maximum total civil penalty of \$10,000.00.

D. In addition to any other reasonable means for collecting civil penalty monies owed to the county, the civil penalties are a special assessment against the property upon which the violation exists and can be collected pursuant to 20.691.280 if the following conditions exist:

1. The owner has been billed, served or otherwise notified that the civil penalties are due;

2. The amount of the uncollected civil penalties is more than \$5,000; and

3. At least three months have elapsed after the date specified in the order of the Director or the Board of Commissioners by which the owner must abate the violation/remit the fee(s), or at least twelve months have elapsed after the date specified in the original notice of violation to the owner to abate the violation/remit the fee(s).

#### **20.622.150 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.

#### **20.622.160 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, agent, 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.

#### **20.622.160 Violations by occupants of vacation rental homes.**

A. In addition to the penalties set forth in 20.622.110, any violation of the provisions of this chapter is punishable as a misdemeanor pursuant to chapter 1.08.010(A) of this code.

B. The owner may be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this code is committed, continued or permitted by such person and shall be punished accordingly pursuant to 1.08.010(C).

C. 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 responsible for the conduct constituting the violation.

SECTION III: The Douglas County Development Code, Title 20, Chapter 20.691, Section 230, Property Maintenance, is amended with the new language shown underlined, as follows, all other sections shall remain in full force and effect:

### Chapter 20.691

#### Property Maintenance

##### 20.691.230 Specific Public Nuisances

The following are specifically declared to be public nuisances, but this list shall not be deemed to be exclusive:

A. The accumulation, exposure, or deposit of any garbage, rubbish, bulk solid waste or solid waste on any public way or any private street, alley, or lot, or into a stream, well, spring, brook, ditch, pond, river, or other inland waters within the county, or the placing of such substances in such position that high water or natural seepage will carry the same into such waters;

B. Any physical condition of a premise considered an attractive nuisance, including, but not limited to abandoned wells, shafts, basements, unguarded machinery;

C. An abandoned, unattended, or discarded icebox, refrigerator, or other container accessible to children which has an airtight door, or lock which may not be released for opening from the inside;

D. Dangerous pilings and unprotected excavations;

E. Any premises that has plumbing that permit the spillage of effluent outside of an approved sanitary sewer system, or the escape of sewer odors and gases;

F. The maintenance of premises which are in such a state or condition as to cause an offensive odor;

G. The accumulation of feces or manure in piles or heaps, unless enclosed in containers capable of excluding flies and maintained in such a manner or condition that offensive odor is not emitted there from; or is stored consistent with reasonable agricultural practices and/or in such a way so that it is used in legitimate agricultural purposes, and protected in such a way as to not interfere with the water table or neighboring waterways;

H. The burning of any rubbish, garbage, rubber, cloth, or any other thing, the burning of which, or the smoke emitted from such burning, creates an offensive odor;

I. The accumulation of stagnant water in which mosquitoes may breed;

J. Violation of DCC 20.691.110 by keeping more than five cubic yards of junk on any residentially zoned property or by keeping four or more neglected or wrecked motor vehicles on any residentially zoned property regardless of screening;

K. Violation of DCC 20.691.180, "Derelict Structures";

L. Any building or structure that is in a condition that poses an imminent hazard to public health, safety or welfare;

M. A violation of 8.14.020 Abandoned vehicles prohibited;

N. An unpermitted driveway connection from private property to the public right of way for the passage of motorized vehicles that poses a public safety hazard or impedes access, traffic or drainage; and

O. A violation of any provision of chapter 20.622, "Vacation Home Rentals."

PROPOSED on \_\_\_\_\_, 2018

PROPOSED by Commissioner \_\_\_\_\_

PASSED on \_\_\_\_\_, 2018

VOTE:        AYES:        Commissioners        \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NAYS:        Commissioners        \_\_\_\_\_

\_\_\_\_\_

Absent:        \_\_\_\_\_

\_\_\_\_\_  
Steven J. Thaler, Chairman  
Douglas County Board of Commissioners

ATTEST:

\_\_\_\_\_  
Kathy Lewis, Clerk-Treasurer

This ordinance shall be effective on \_\_\_\_\_, 2018.

**Douglas County Board of County Commissioners**

**AGENDA ACTION SHEET**

**Title:** For possible action. Review and discuss data from interested persons to determine whether proposed Ordinance No. 2018-1520, which amends the Vacation Home Rental code section, will impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business as identified in Nevada Revised Statute 237.080 (Mimi Moss)

**Recommended Motion:** That Ordinance No. 2018-1520 *(does/does not)* impose a direct and significant economic burden upon a business, or directly restrict the formation, operation or expansion of a business as identified NRS 237.080 based on the arguments and data provided.

**Financial Impact:** To be determined by the Board

**Prepared by:** Mimi Moss, Director Community Development

**Meeting Date:** August 16, 2018      **Time Required:** 30 Minutes

**Agenda:** Administrative

**Background Information:** The Board of Commissioners considered the first reading of Ordinance No. 2018-1515, an amendment to the existing Vacation Home Rental Ordinance at its meeting on August 2, 2018. Following public hearing and discussion by the Board, the Board directed staff to continue the item until additional outreach was completed and to provide additional data prior to the introduction of the ordinance. However, the Board also directed staff to bring forward a separate ordinance to amend a portion of the existing Vacation Home Rental provisions, specifically to delete chapter 5.40, Vacation Rentals in the Tahoe Township, from Title 5 of the Douglas County Code and incorporate Vacation Home Rentals into Title 20, chapter 20.622 of the Douglas County Code, adding fines for un-permitted rentals, and amending section 20.691.230 to define violations of chapter 20.622 as a specific public nuisance. The first reading of Ordinance No. 2018-1520 is set to be heard by the Board at its August 16, 2018 meeting, under a separate agenda item.

Prior to adopting Ordinance 2018-1520, Nevada law requires that the Board make a concerted effort to determine whether the proposed rule will impose direct and significant economic burdens upon businesses or directly restrict the formation, operation or expansion of a business per NRS 237.080 (1)(a) and (1)(b). In anticipation of the hearing on the ordinance, staff notified all permit holders (owners) of vacation rentals, all hotel/lodging businesses, all vacation rental property managers, the Business Council of Douglas County, the Carson

Valley Chamber of Commerce, the Carson Valley Visitor's Authority, the Lake Tahoe Visitor's Authority, and the Lake Tahoe Chamber regarding the proposed changes to the Douglas County Code. Affected and interested persons were asked to provide data or arguments as to the effect of the code amendment on their business at the August 2, 2018 Board of Commissioners meeting. This same item was continued by the Board to the August 16, 2018th meeting, to be considered along with this proposed new ordinance, moving Title 5.40 into Title 20.

For purposes of context, in 2005 the Board determined that vacation home rentals are considered a residential use that may be allowed in a residential neighborhood subject to the issuance of a vacation home rental permit meeting the standards identified in the current code/ordinance. The revised ordinance continues to allow vacation home rentals within existing neighborhoods, but strengthens the standards and the enforcement of the review and issuance of the permit.

Douglas County does not require a business license fee for any business endeavor, including vacation home rental uses. Although vacation home rental permits require the filing of a fee (\$400 for new permits and \$250 for renewals [cost was previously \$100 and \$75, respectively]), the increased cost is necessary to offset staff time to review, inspect, and track permitted vacation home rentals. This additional cost is not considered a significant financial impact upon vacation rental activities.

For example, Host Compliance has provided vacation home rental information that indicates that the average nightly rate in Douglas County is \$295. Based on this nightly rate, the impact for a new vacation rental permit would be offset by only two nights of average rental business within one year's time, and the impact due to increased renewal fees would be offset after being rented only once within a one-year period. Moreover, the increased fee will be borne equally by all property owners, not just business owners. NRS section 237.0601.b, refers to an action taken by the governing body that imposes, increases, or changes the basis for the calculation of a fee that is paid in whole or in substantial part by a business. County records indicate that 8.4 percent of permitted vacation home rentals are listed under a business name, versus a private property owner. As a result, fewer than half of the current VHR permit holders are businesses, and therefore do not fall within the statutory definition of a "rule" below, since the fee is not paid in whole or in substantial part by businesses (refer to NRS section 237.060.1(a) and (b)). Staff will also note that under NRS chapter 76.020(2)(d), *State Business License defined*, the State excludes individuals who rent four or fewer units from the definition of a

"business," and therefore are exempt from the requirement that they obtain a state business license.

In addition, the Assessor has been consulted and has indicated that the assessed value of rental property, short or long term, is the same. Staff will also note that the amount of Transient Occupancy Tax and Lodging License Tax for vacation home rentals remains the same as currently identified under Douglas County Code Title 3.

A copy of draft Ordinance No. 2018-1520 is attached for reference.

As discussed above, the purpose of this agenda item is for the Board to hear arguments and review data from businesses that feel they are impacted by the code amendments.

NRS 237.080 is provided below:

**NRS 237.080 Prerequisites to adoption of rule by local government.**

1. Before a governing body of a local government adopts a proposed rule, the governing body or its designee must make a concerted effort to determine whether the proposed rule will impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business. The governing body of a local government or its designee must notify trade associations or owners and officers of businesses which are likely to be affected by the proposed rule that they may submit data or arguments to the governing body or its designee as to whether the proposed rule will:

- (a) Impose a direct and significant economic burden upon a business; or
- (b) Directly restrict the formation, operation or expansion of a business.

Ê Notification provided pursuant to this subsection must include the date by which the data or arguments must be received by the governing body or its designee, which must be at least 15 working days after the notification is sent.

2. After the period for submitting data or arguments specified in the notification provided pursuant to subsection 1 has expired, the governing body or its designee shall determine whether the proposed rule is likely to:

- (a) Impose a direct and significant economic burden upon a business; or
- (b) Directly restrict the formation, operation or expansion of a business.

Ê If no data or arguments were submitted pursuant to subsection 1, the governing body or its designee shall make its determination based on any information available to the governing body or its designee.

3. If the governing body or its designee determines pursuant to subsection 2 that a proposed rule is likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or

expansion of a business, the governing body or its designee shall consider methods to reduce the impact of the proposed rule on businesses, including, without limitation:

- (a) Simplifying the proposed rule;
- (b) Establishing different standards of compliance for a business; and
- (c) Modifying a fee or fine set forth in the rule so that a business is authorized to pay a lower fee or fine.

4. After making a determination pursuant to subsection 2, the governing body or its designee shall prepare a business impact statement.

**Agenda Item # 4**

**DOUGLAS COUNTY BOARD OF COMMISSIONERS  
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Commissioner Walsh agreed with Commissioner McDermid.

Commissioner Nelson also agreed that Ms. Davidson would be acceptable.

**Public Comment-None**

Commissioner McDermid moved to appoint Jennifer Davidson to the role of acting County Manager, effective September 1, 2018 through the first day of employment of a County Manager who arrives into the County Manager's office.

MOTION to appoint Jennifer Davidson to the role of acting County Manager, effective September 1, 2018 through the first day of employment of a County Manager who arrives into the County Manager's office; carried.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Nancy McDermid, Board Member
<b>SECONDER:</b>	Larry Walsh, Board Member
<b>AYES:</b>	Thaler, Penzel, McDermid, Walsh, Nelson

**COMMUNITY DEVELOPMENT**

**3. For possible action. Discussion to introduce Ordinance 2018-1520, an ordinance deleting chapter 5.40, Vacation Rentals in the Tahoe Township, from Title 5, and incorporating all of Vacation Rentals in the Tahoe Township into Title 20, Chapter 20.622, of the Douglas County Code, adding fines for un-permitted rentals, amending fines and penalties for violations, amending the revocation and appeal process, and amending section 20.691.230 to define violations of chapter 20.622 as a specific public nuisance, and other properly related matters. First reading. (ref. DA 18-023) (Mimi Moss)**

Mimi Moss, Community Development Director, introduced Mary Ann Martin, Deputy District Attorney. She stated that they had received written public comment. She stated that there was some confusion, as the request was just to move the ordinance from Title 5, into Title 20, which would allow enforcement. She stated that they added the fine for running an unpermitted vacation rental, clarified some of the language on page 207 and 209 and on page 210, they added the procedure for imposing penalties and the appeals process. They also added under chapter 20.691 that running an unpermitted vacation rental would be considered a public nuisance and could be addressed by code enforcement.

Chairman Thaler clarified that there would be more to come on this issue.

Commissioner McDermid clarified if the \$5,000 fee was throughout the entire community. She brought other issues up that would be addressed at a future meeting.

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Ms. Moss clarified that those issues would be brought forward at a future meeting. She stated that they had begun implementing the inspection process, based upon a provision in the code that the inspection could be allowed.

Commissioner Walsh commended Ms. Moss and Staff for following the Board's direction.

Commissioner Nelson thanked Ms. Moss for doing exactly what they had requested she do.

Chairman Thaler stated that he did hear what Commissioner McDermid was saying and clarified that those issues would be addressed in the future. They were just simply giving code enforcement some teeth to enforce the existing code. They needed to do some outreach and bring the issues forward in the future, which could either add or subtract necessary requirements.

Vice Chairman Penzel stated that he was concerned that they hadn't addressed the enforcement of the penalties. He believed that Commissioner McDermid was concerned about the safety of the properties. He questioned if the inspections that had been done recently had revealed any safety violations.

Ms. Moss stated that Kelly had advised her that there had been no violations in the previous four properties she had inspected. She stated that they did see that life safety inspections were necessary. They were under the process of coordinating with Tahoe Douglas Fire District to determine exactly what the inspection criteria was to be, going forward. If they needed to bring in Tahoe Douglas Fire to complete those inspections in the future, they would do that.

Commissioner McDermid questioned if when a project came before Community Development, the fire districts weighed in on the review process.

Ms. Moss stated that they weighed in on any new project development.

Chairman Thaler requested that the conversation be brought back to the current agenda item.

Ms. Moss requested that the Board discuss the application of the unpermitted vacation rental fine with Staff and provide direction. She stated that Staff recommended that there be a 30-day grace period, which would allow those people that were operating illegally sufficient time to apply for the permit.

Vice Chairman Penzel stated that he had discussed the grace period with the Director of Community Development and the advertising window would serve as the 30-day grace window and after the ordinance went to effect, the fine should then be imposed.

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Chairman Thaler stated that he had no opposition to a grace period. He would give direction to Staff to come up with a grace period.

Commissioner Walsh questioned if they could implement the grace period at the time of the second reading.

Chairman Thaler clarified that they could do so.

**Public Comment**

**Ralph Miller** stated that he was the Chairman of the Board of Trustees of the Cave Rock Estates GID (General Improvement District). He stated that it was important to get input as to whether the process was working. He did not understand why they did not implement the provision of requiring the applicants to have a letter of recommendation from the GID or the HOA (Home Owners Association) if there was one in the neighborhood. He requested that it be brought back and implemented.

**Kathy Oyster** stated that a quarter of the community where she lived was VHO properties. She was concerned about the issue of fire as well. She requested that they implement an annual follow up inspection of the permits. She quoted the Community Development mission statement and stated that the only people who was going to enforce the rules that were being created were the neighbors.

**David Blumberg** stated that it was a sensitive topic, but for him it was a no brainer. There should be annual checks for fire safety and the homeowner should be held accountable. If one of the renters had a party, the owner should be held accountable.

**Kaaran Thomas** requested clarification about what specific inspection were being required and where did the money from \$5,000 fine go.

**George Krumpotich** applauded the Board's efforts to give the ordinance some teeth. He stated that he lived right next door to one of the biggest party houses in Lake Tahoe and he would like more fees imposed.

**Bob Drabant** questioned where the fine money went and requested clarification as to who the regulations would effect. He stated that he felt they were putting the cart before the horse and questioned the need for VHR's in the County. He thanked the Board for their time and effort.

**Kendall Barrett** thanked the Board for moving the regulations to the section to allow enforcement.

**Tim Stevenson** stated that he appreciated what people in the Tahoe Township were going through. He stated that the County did need to have some teeth, but

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he believed that the fee should increase incrementally. He questioned where the money would be coming from to pay the employees to oversee the project.

**Ann Grant** stated that they needed code enforcement to do their job. She believed that if they hired a host compliance, there would be more complaints. She questioned why Tahoe Douglas was not included in the inspection process.

**Wes Rice** stated that he was the Chair of the Round hill GID. He understood that they were there to move the ordinance from one section to another to give the guard dog teeth. He urged the Board to approve the motion.

**Ed Andrews** stated that he was fine with what they were there to approve that day was seemingly a placeholder. He stated that there was a lot of money that was sitting in that area. He did not want to ban them, but believed that they needed to get ahead of the issues. He believed the biggest incentive for good behavior was the threat to the home owner of having their permit revoked.

**Michael Katz** stated that he believed the main issue was the unpermitted vacation rentals. He stated that it needed to be clarified as to whether the fine was only to be imposed in the Tahoe Township. He requested clarification as to whether the \$5,000 was a fine per day or a one-time fine, as it was not specified.

**Jeren Gunter** stated that this was a great start. He had gone through about 40 inspections with the homes that he manages. The inspections done recently had been different. He stated that Kelly had done a good job. He did not always agree with code, but he was compliant. He suggested that they send a notice with the fine that said if they don't get a permit within 30 days, they would receive an additional fine, until they became in compliance, or stopped renting the property.

**Bruce Jorgensen** stated that any permits granted between then and when they had figured out exactly what they wanted the code to be, should be conditional.

**Monica Young** stated that she was a resident of Skyland. She was for the change of codes for the vacation rentals. She stated that if every property had a permit and strong house rules, it would help. She suggested that they limit the amount of properties any owner or management group could own or oversee.

Chairman Thaler clarified that the money from the fine would go to the General Fund. Code Enforcement worked for the County, which was why the funds didn't go to the Township.

Ms. Moss suggested that they modify some language on page 206, item 20.622.050, b. She requested they add language that stated located anywhere in Douglas County.

Commissioner McDermid questioned if a HOA or GID recommended a denial, would they not take that into consideration.

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Mary Ann Martin stated that there was nothing in the ordinance that gave a GID or HOA any authority to make a recommendation. The HOA's were responsible to enforce their own CC and R's. They had proactively asked them to start giving them their recommendations.

Commissioner Nelson stated that the 30 day grace period was okay when the ordinance was passed, but it shouldn't be used as a get out jail free.

Vice Chairman Penzel clarified that it was not an if they get caught, it was not a waiver. It was if they wanted to have the VHR, they needed to apply. If they got caught, it was a \$5,000 fine. The next step beyond that would be to take the permit. He stated that the finite details would come out in the future meeting to further discuss the issue. He stated that the fines would go to pay for the host compliance and additional code enforcement officers.

Commissioner McDermid stated that if there was an unpermitted VHR operating, they would be fined. They would need to pay that fine before they had the opportunity to apply for the permit.

Chairman Thaler stated that a grace period was appropriate, rather than forcing them to pay the \$5,000 when they essentially had to admit that they had been operating illegally upon applying for the initial permit.

MOTION to introduce Ordinance 2018-1520, an ordinance deleting chapter 5.40, Vacation Rentals in the Tahoe Township, from Title 5, and incorporating all of Vacation Rentals in the Tahoe Township into Title 20, Chapter 20.622, of the Douglas County Code, adding fines for un-permitted rentals, amending fines and penalties for violations, amending the revocation and appeal process, and amending section 20.691.230 to define violations of chapter 20.622 as a specific public nuisance, and other properly related matters; carried.

<b>RESULT:</b>	<b>INTRODUCED [UNANIMOUS]</b>
<b>MOVER:</b>	Larry Walsh, Board Member
<b>SECONDER:</b>	Nancy McDermid, Board Member
<b>AYES:</b>	Thaler, Penzel, McDermid, Walsh, Nelson

**4. For possible action. Review and discuss data from interested persons to determine whether proposed Ordinance No. 2018-1520, which amends the Vacation Home Rental code section, will impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business as identified in Nevada Revised Statute 237.080 (Mimi Moss)**

Mimi Moss, Community Development Director, gave a brief background. She stated that Staff had notified many people and asked them to provide arguments or data. The revision would continue to allow Vacation Home Rentals (VHR's) in residential areas. She stated that they believed the increased initial and renewal

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fees were minimal. The purpose of the item was to provide a hearing to allow business owners to give their opinions about the increased fee. State law required that they hear from the business owners before the Board adopted the ordinance. The hearing was to evaluate the potential impact of moving the ordinance from chapter 5 to chapter 20.

Commissioner McDermid requested clarification about how much taxes had been collected.

Doug Ritchie, Chief Civil District Attorney, stated that it was an honor system.

Chairman Thaler stated that because they had not hired host compliance or done an internal review of who was actually paying their taxes, that information would be skewed.

**Public Comment**

**Kaaran Thomas** stated that she still had not received an answer about the life inspections requiring sprinklers or smoke detectors and if they were issuing permits to homes that did not have those items.

**David Blumberg** stated that safety should be the number one concern. Also, the TOT was a fair number at 14%, but something should be done to make sure that those taxes were being paid honestly.

**Jeren Gunter** gave a list of the total TOT taxes they had paid on their 38 vacation rentals. He stated that they had open books, but the private home owner was really on the honor system. People did not think they had to report.

Chairman Thaler stated that they were talking about the impact of the fee increase, not the TOT.

**Cathy Oyster** stated that the number had been under evaluated. She questioned if they had evaluated the impact to the community.

**Tim Stevenson** stated that there would be an impact to the hotels and restaurants. He did agree with doing something, but did not agree with a huge fine.

Ms. Moss stated that she did not believe that it does not impact them, they just did not get an correspondence that stated a significant impact to business.

MOTION that proposed Ordinance No. 2018-1520 will not negatively impact businesses; carried.