



Date: June 25, 2024

Honorable Mayor and Council Members:

Author and title: Rosie Johnson, Program Analyst II

Title: **Appeal of Notice of Determination at 10161 Palisades Drive Unit 1**

Jen Callaway, Town Manager

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**Recommended Action:** Staff recommends that the Town Council conduct a public hearing and make a finding of non-compliance with the Town of Truckee Municipal Code and uphold the Notice of Determination and judgement amount of \$4,500.

Alternatively, if the Council determines that the findings to approve the appeal can be made, the Council may take action to grant the appeal and overturn the Notice of Determination.

**Discussion:**

**Truckee Municipal Code Background**

Truckee Municipal Code Chapter 5.02 established the standards and requirements for operation of transient rentals of residential units (commonly referred to as short-term rentals or STRs). This chapter includes requirements intended to reduce neighborhood conflict and nuisance issues, including standards for occupancy limits, trash, fire safety, and parking. This chapter further requires that the property owner is responsible for renter compliance with operating standards. Below is a summary of sub-sections relevant to this appeal hearing:

- § 5.02.020 defines a "Local contact person" as "an individual who is personally available by telephone on a twenty-four (24) hour basis and who maintains the ability to be onsite within sixty (60) minutes and who has access and authority to assume management of the short-term rental. An agent or professional property management company that meets the availability requirements can serve as the local contact person";
- § 5.02.020 defines an "Operator" of a short-term rental as "any and all of the following: (i) the person who is a legal owner of a short-term rental; (ii) a person who has the legal right to possession of a short-term rental; (iii) a person who has a legal right to receive or collect any monies as rent for the occupancy of a short-term rental; and (iv) any manager, agent, representative or other similar person acting under the authority or at the direction of the owner or other operator of a short-term rental";
- § 5.02.020 requires that each short-term rental designate a local contact person who is personally available on a twenty-four (24) hour basis, who maintains the ability to be onsite within sixty (60) minutes and who has access and authority to assume management of the short-term rental;
- § 5.02.040(A) establishes that the operator is responsible for taking any action necessary to ensure guests abide by the terms of the short-term rental ordinance;
- § 5.02.040(B) further establishes that a local contact person shall be personally available by telephone on a twenty-four (24) hour basis and shall respond by phone within thirty (30) minutes of contact by Town of Truckee employees or agents or the guest(s). This subsection also requires that upon receiving a call or complaint about the short-term rental, the local contact person shall

take steps to investigate the complaint and cause the discontinuance of any violation within sixty (60) minutes of a complaint being received, and that within sixty (60) minutes the contact person shall submit a verbal or written explanation to the Town of Truckee describing the steps the local contact person has taken to investigate the complaint, to confirm whether a violation has occurred, and to resolve any violation that has occurred;

- § 5.02.040(E) requires a minimum service level of two trash cans that shall be maintained for all registered short-term rentals; and
- § 5.02.060 provides that the owner of a short-term rental shall be deemed responsible for all violations of this chapter occurring at the short-term rental or in connection with its operation.

### Operational Background

The STR Operator is required to designate a local contact person and to provide a 24/7 contact phone number and an e-mail address for this individual during the short-term rental registration process. During subsequent renewal processes there is an opportunity to make changes to the designated name, phone number and email address. It is the responsibility of the operator to ensure that the information provided to the Town designating a local contact person is up to date. Furthermore, with the implementation of the new STR Division software in June of 2023 the Operator is able to update this information at anytime within their user account.

The subject property's registration designated a third-party property management agent as the short-term rental's local contact person.

### Administrative Citation Background

On December 10, 2022, the Town's STR Division received an after-the-fact complaint regarding excess trash from 10161 Palisades Drive Unit 1 improperly placed in a neighbor's trash can within a bear shed shared between the unit and a neighboring unit. On December 14, 2022, an educational email was sent to the property's designated local contact person regarding this complaint. On July 4, 2023, a second complaint was received by the STR helpline regarding trash from the unit improperly placed in a neighbor's trash can and a warning was issued to the designated local contact on July 5, 2023. On February 12, 2024, a complaint was received by the STR helpline regarding this same issue. The helpline agent left a detailed voicemail with the designated local contact person and the Town did not receive a returned communication on the resolution within the sixty-minute required timeframe, which is a violation of Municipal Code § 5.02.040(B). A returned communication was eventually received on February 14, 2024. Additionally, it was determined that the property lacked two-can trash service, in violation of Municipal Code § 5.02.040(E). A first administrative citation was issued to the property owner Ms. Tomasello, on February 21, 2024, for the above-referenced violations (see Attachment 1: First Administrative Citation).

On March 3, 2024, the Town received a request for an appeal hearing from Ms. Tomasello regarding the February 21, 2024, Administrative Citation.

On March 12, 2024, an additional complaint was received by the STR helpline regarding this same issue. The helpline agent left a detailed voicemail with the designated contact person and the Town did not receive a returned communication on the resolution within the sixty-minute timeframe required by Municipal Code § 5.02.040(B). Upon further investigation, it was determined that the property still lacked a two-can trash service as required by Municipal Code § 5.02.040(E). A second administrative citation was issued on March 12, 2024, for the above-referenced violations (see Attachment 2: Second Administrative Citation).

On March 26, 2024, Ms. Tomasello requested an administrative appeal hearing regarding the March 12, 2024, citation and a hearing was scheduled to address both Administrative Citations.

### Administrative Citation Appeal

Municipal Code § 5.02.060(C) provides that an operator may appeal a penalty pursuant to this chapter, with such an appeal resulting in an administrative hearing before a hearing officer. The code further provides that an operator aggrieved by the appeal hearing officer's decision may further appeal to the Town Council by filing a notice of appeal with the Town Clerk. Following Ms. Tomasello's March 26, 2024, request to appeal both administrative citations, a hearing was held on March 27, 2024. Hilary Hobbs, Assistant to the Town Manager, was designated by the Town Manager as the hearing officer (referred to in Municipal Code § 5.02.060(C) as the "Tax Administrator"), in accordance with Municipal Code § 3.24.020 (g). The hearing officer determined that the February 21, 2024, and March 12, 2024, citations were issued in compliance with the municipal code because the property in question lacked a two-can trash service and because the local contact was unresponsive and because there was lack of complaint resolution within the required time frame. Therefore, the citations were upheld (see Attachment 3: Appeal Hearing Determination). On March 29, 2024, following the administrative appeal hearing Ms. Tomasello provided a written update on steps that she has taken since the citations were issued to address compliance with Municipal Code (see Attachment 4: Correspondence from Appellant).

On April 26, 2024, Ms. Tomasello filed a second notice of appeal with the Town Clerk to appeal the Tax Administrator's decision to Town Council. The Town Council's role in this appeal is limited to determining whether the citations issued were in compliance with the Town Municipal Code. Pursuant to Municipal Code § 5.02.060(C), the findings of the Town Council will be final and conclusive.

#### **Priority:**

<input type="checkbox"/> Enhanced Communication	<input type="checkbox"/> Climate and Greenhouse Gas Reduction	<input type="checkbox"/> Housing
<input type="checkbox"/> Infrastructure Investment	<input type="checkbox"/> Emergency and Wildfire Preparedness	<input checked="" type="checkbox"/> Core Service

**Fiscal Impact:** The cost of submitting this appeal is paid for by the appellant through a deposit which is the full cost based on an appropriate hourly rate. The cost of processing the appeal includes preparation for the staff report, public noticing for the hearing, and staff's attendance at all Council hearings.

The fine for the February 21, 2024, citation is \$1,500 and the fine for the March 12, 2024, citation is \$3,000. Pursuant to Municipal Code § 5.02.060(C), any fine or penalty found to be due is immediately due and payable upon the service of notice.

**Public Communication:** Town staff provided notice of this hearing through publication in the Sierra Sun and was published as part of the regular Town Council agenda packet.

#### **Attachments:**

1. First Administrative Citation
2. Second Administrative Citation
3. Appeal Hearing Determination
4. Correspondence from Appellant