

Rocky Ridge Properties Owners' Association
PO Box 432
Tahoe City, CA 96145

AMENDED AND RESTATED MEMORANDUM

TO: Rocky Ridge Property Owners
FROM: The Board of Directors of the Rocky Ridge Properties Owners' Association
DATE: May 11, 2022
SUBJECT: Increase in Bear Break-ins; Recommended Protective Steps to Deter Further Bear Break-ins to Homes and Common Areas in the Rocky Ridge Development.

NOTE: This Memorandum replaces and supersedes in full the April 26 memorandum circulated by the Board of Directors on this topic. This Memorandum also sets forth a description of the purpose and effect of the rule being adopted by the Board or Directors of the Association with respect to installation of electrified bear mats (and the allocation of responsibility for costs incurred with respect to residences that do not install electrified bear mats).

Background

The Rocky Ridge development (and the entire Tahoe basin, for that matter) is experiencing a dramatic increase in the frequency of bear break-ins into residences. There are a multitude of causes for the significant increase in bear and human interactions that have resulted in property damage at Rocky Ridge including erosion of the traditional bear habitat, catastrophic fires that diminish bear normal foliage ranges and the intrusion of human occupancy into spaces that were traditionally bear habitat.

Our property manager, Yates, and his maintenance team have fought the good fight to discourage bear break-ins, however the Rocky Ridge development has suffered approximately 31 break-ins that are attributable to bear incidents since Thanksgiving weekend, with the frequency increasing in the last few weeks. Every indication cited by persons and agencies who monitor the bear/human interface problem are concerned that the problem may get worse as temperatures rise and the traditional source of bear feeding sources diminish. Traditionally bears hibernated in the snow/covered months in the Tahoe Basin and then came out to forage in the warmer months. However now, due to climate change, that takes four to five months of shopping in human populated venues that the bears didn't used to have -- and they are hungry and our Tahoe homes are increasingly vulnerable. Bears are very intelligent and their sense of smell about food sources is significantly greater than that of humans or dogs. One website states

that bears are known to be able to smell **100 times better than your dog**, while your dog is able to sniff out snacks around 300 times better than we can.

Accordingly, bears pose a meaningful threat to our property and to the residents and visitors of Rocky Ridge. Residences that have been broken into often suffer significant damage to doors, entryways, carpets, appliances, furniture and other personal property. The bears also leave behind a strong and distinctively unpleasant odor. The repair and clean-up costs can be significant, and they have impacted not only the residence owners, but also the Association and the resources of our maintenance personnel.

More importantly, the Board is concerned about the prospect of bear encounters with residents. A person could be seriously injured. Note that some of the recent break-ins have occurred when residences were occupied. The bears that roam the streets of Rocky Ridge may appear to be docile because they are used to human encounters, but they remain wild animals whose behavior is unpredictable.

The bear issue clearly merits serious attention. In addition to safety concerns, the clean-up and repair after bear break-ins is expensive. To be clear, the Association's budget does not cover clean-up costs for interior damages (owners bear these on their own). And while the Association's budget includes funds for ordinary maintenance and repair of townhome doors and door frames and other exterior elements, the Association's budget has not been structured to cover expenses arising out of bear break-ins that are outside of the Association's reasonable control. Subparagraph (d) of Section 6.02 of our Declaration of CC&Rs provides as follows:

(d) Owner Liability. In the event the need for any maintenance, repair, or replacement of a component [of a Residence] which is otherwise an Association responsibility is caused by the willful or negligent act or omission of an Owner or an Owner's family, tenants, contract purchaser, guests, invitees, or household pets, the cost of such maintenance, repair, or replacement, including the cost of materials, labor, supplies, and services shall be charged to, and paid by, such Owner in the form of a Reimbursement Assessment.

The Board has considered numerous possible remedial approaches to address this bear intrusion and damage problem (and the significant associated costs to individual property owners and also to the Association). The Board held emergency meetings on April 22nd and April 29th to discuss the issue with residence owners, and the pros and cons of possible approaches. Several owners attended and provided thoughtful input. Minutes of the two April emergency meetings are available for review on the Association's website at <http://www.rr-tahoe-com>.

The Board's Recommendation: Installation of Electrified Door Mats at the Entrances to the Residential Units.

After considering several alternative remedial strategies, the Board of Directors determined at its April 22, 2022 meeting that the most viable approach to effectively respond to the increasing bear intrusion problem would be to require each residence (i.e., the 100 townhomes and the 2 individual residences) to install an electrified bear mat immediately outside the front door of each Owner's residence. Although in the past, bear intrusions resulted from access through other unsecured entrances to residences, for whatever learned behavioral reason, the bears breaking into Rocky Ridge residences almost always go through the front door.

Yates reported that he could obtain the bear mats through Tahoe Bear Busters, a local Truckee-based company. Yates and his chief assistant, Buster, both have had positive experiences with the electrified bear mats in preventing bear access behavior, including with the few units at Rocky Ridge that already have installed the mats. Tahoe Bear Busters also reports that the bear mats have proven successful in deterring break-ins at other developments in the Tahoe Basin.

In reaching this decision, the Board understood that the installation of the bear mats might run a risk that some individuals could suffer an inadvertent shock (for example, if they stepped on an electrified mat without shoes). Nonetheless, the Board thought it best to proceed with the bear mat strategy for a number of reasons, including the following:

- The Board felt that through notices and signs posted at the entrances to homes, owners should be able to make their families, tenants and guests aware of appropriate safety steps to avoid an inadvertent electrical shock from the bear mats. For example, an individual should not suffer a shock if he or she is wearing shoes when stepping on the electrified bear mat or if the electric mat is covered by a conventional mat when the residence is occupied (although that is not always recommended because bears have been known to access occupied units).
- If an individual suffers a shock, it will not be pleasant, but Tahoe Bear Busters assures that the shock will not cause material damage to the individual (of course, homeowners should take particular care with individuals with highly sensitive conditions or equipment, such as a pacemaker or pets and small children).
- Homeowners will want to be particularly careful with pets to make sure that they do not step on a mat when the mat is turned "on". This concern should encourage dog owners to keep their dogs on a leash (so their pet will not suffer a shock from another residence's electrified bear mat). Keeping dogs leashed on the Property is already a requirement of the existing Declaration of CC&Rs and supervising children is always primarily the parent's responsibility.
- Ultimately, the Board concluded that the risks of further bear break-ins, in the absence of the electrified bear mats, posed materially greater risks to homeowners, tenants and guests than the risks presented by the bear mats.

To be sure, there is no guaranty that the electrified bear mats will deter all bear break-ins. But given the magnitude of risk that bear break-ins pose to persons and property, the Board felt compelled to pursue what the available evidence suggests to be an effective deterrence option.

Owner Option to “Opt Out” of the Installation of an electric Bear Mat Requirement

While many residence owners supported the Board’s decision to mandate installation of electrified bear mats at front door entrances, the Board also heard from a subset of owners who indicated, for a variety of reasons, that they would prefer to not install such a mat. The principal objection that has been voiced is that the mats, when powered, pose a risk of electrocution to occupants, visitors, and pets in the residence, although with a modicum of discipline and communications with visitors, that risk seems minimal, much like remembering to put your seat belt on when that is the safe way to operate a vehicle.

After hearing these concerns, the Board determined to revise its policy to give homeowners an option to “opt-out” of the door mat installation requirement.

While providing such latitude, the Board was still left with the question of how to allocate the significant and mounting expenses arising out of bear break-ins among all of the property owners. To address this question, the Board (pursuant to its rule making authority under Section 3.06(a) of the CC&R’s) has proposed adoption of the rule set forth below.

Rule: Allocation of Expense Arising out of Bear Break-ins

In connection with the adoption of the rule, the Board makes the following findings:

- (i) With its relatively isolated location up the hill from Tahoe City, Rocky Ridge owners for many years have suffered occasional bear break-ins and for the reasons stated previously in this notice the frequency of bear intrusions to residences has increased significantly. The break-ins cause material damage, both to the front doors, the door frames and the entryways to the residences (in addition to the havoc wrecked upon interior improvements and furnishings).
- (ii) Unfortunately, the bear problem has become much more pronounced over the course of the 2021-2022 winter and spring. Rocky Ridge has suffered over 30 bear break-ins during this time, including break-ins into units that were occupied at the time of the break-in. Simply put, **bears now are threatening units not only when their owners are away, but also when owners, tenants (or guests) are in residence.**

- (iii) Bear break-ins have become such a problem that they pose an imminent threat to public health and safety at Rocky Ridge, and an imminent risk of substantial economic loss to both the Association and residence owners.
- (iv) The Board of directors has explored various alternatives for deterring bear break-ins to the Rocky Ridge residential units, and it has determined that the most effective available strategy is to install electrified bear mats at the front entrances to as many residential units as possible. Other strategies have been tried, such as installing bungie cords and plywood barriers at the front entrances to the Units; however those deterrents have proved unsuccessful.

The Board believes that in the current environment, with bear break-ins occurring almost daily, the installation of an electrified bear mat at each residence's front door represents the minimal standard of ordinary maintenance that an owner should apply to protect against a break-in into the owner's residence. Of course, the electrified bear mat approach is not fool proof; bears still may break into units. Nonetheless, the Board has concluded that given the spate of break-ins, and the relative failure of other approaches to stop the break-ins, the mats provide the most viable and potentially effective strategy.

Taking into account these findings, the Board adopts the following rule:

- (i) **The Board recommends that each owner at Rocky Ridge install an electrified bear mat at his or her front door.** The Association has authorized the Property Manager (Yates) to recommend precautionary signage with respect to the bear mats, and owners installing an electrified bear mat will be required to install safety signage approved by Yates.
- (ii) Notwithstanding the Board's recommendation, the Board has determined to continue to give deference to residence owners with respect to this issue. **The Board thus has determined that it will not mandate the installation of electrified bear mats** (at least not at the present time - the Board reserves the right to change this determination in the future, should the Board conclude a change will be in the interests of the owners and the Association).
- (iii) **However, the Board also believes that each residence owner should bear financial responsibility for a decision – i.e., declining to install an electrified bear mat – which is against the safety recommendation of the Board, and which fails to meet the Association's minimum expected level of owner diligence.** Accordingly, the Board has determined that from and after the effective date of the rule, a residence owner will bear all costs associated with repair and clean-up of his or her residence due to a bear break-in if, at the time of the break-in,;
 - a. the residence owner had not installed an electrified mat of a type approved by Yates; or

- b. the residence owner had installed an electrified mat, but the mat was not activated at the time of the break-in;
- c. Owners who do not install mats should also consider their potential liability for resulting damage to adjacent residences because bears do not appreciate the boundaries of a particular unit.

The effective date of this Rule Change shall be July 1, 2022. The Property Manager may extend the July 1, 2022 effective date for those owners diligently pursuing installation of a bear mat due to reasonable delays incurred by difficulties in procuring equipment or electrical services required for the installation of a bear mat.

- (iv) The repair and clean-up costs to be borne by an owner in such circumstances, from and after the effective date of the rule, shall include all interior or exterior damage to the owner's residence, including damage to the residence's front door, the door frame, any other finish carpentry or improvements in the walkway around the front door (e.g., any lighting or siding in the walkway or the entryway to the Owner's residence). The owner of course also will bear all damage to the furnishings or other improvements or property inside the Owner's residence, whether the break-in occurs before or after the effective date. Residence owners also will remain liable for costs of repairing damage to windows or sliding glass doors caused by a bear break-in. This element of the proposed Rule Change is based on the fact that damage and destruction to residences caused by bear-break-in are not part of the routine Association repair and maintenance responsibilities that are contemplated by the typical allocation of Association/Owner repair and maintenance responsibilities.
- (v) The Association may incur out of pocket repair and/or clean-up costs on behalf of an owner due to a bear break-in. In such case, the Association shall track the costs and allocate to the residence owner all such costs reasonably allocable to its residence. The owner shall be liable for payment of such amounts as a Reimbursement Assessment under the CC&Rs.
- (vi) Residence owners are reminded that exterior improvements to a residence at Rocky Ridge are subject to approval of the Association's Architectural Control Committee; residence owners should not undertake exterior improvements unless and until the same have been approved.

The Board has adopted the foregoing rule as part of its responsibility: (A) to mitigate the incurrance of expenses that are to be shared amongst, and thereby burden, all of the owners of residences at Rocky Ridge; and (B) to equitably allocate avoidable expenses to those residence owners that, through failure to implement a recommendation advanced by the Board in the interests of protection of both person and property at

Rocky Ridge, risk causing the incurrence of otherwise avoidable expenses. This rule is being adopted on a short-term emergency basis; the Board intends to meet on June 21, 2022 at 1:30 pm to consider final adoption of the rule. The meeting shall be held using the ZOOM platform. Interested members may join the meeting by copying and pasting the following URL link into the search window for their respective web search service:

<https://us02web.zoom.us/j/87187696473?pwd=favh1tUxFzVFOnwkRH6jApEaNzru82.1>

Meeting ID: 871 8769 6473

Passcode: 591655

Dial in (by your location)

- +1 669 900 6833 US (San Jose)
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- +1 253 215 8782 US (Tacoma)
- +1 301 715 8592 US (Washington DC)
- +1 312 626 6799 US (Chicago)
- +1 929 205 6099 US (New York)

Practical Steps Pertaining to Installation of Electrified Bear Mats

Owners wishing to install an electrified bear mat in accordance with the Board's recommendation should so inform the Property Manager as soon as reasonably possible.

The cost for the electrified bear mats is around \$500. The Association is talking with Tahoe Bear Busters about a bulk purchase that might lower this price. Similarly, the Association has discussed the installation mechanics with Leo's Electric (a licensed electrician that can provide electrical assistance in arranging the appropriate wiring for the electrified bear mats).

The Association then can coordinate with Leo's Electric and Tahoe Bear Busters with respect to procurement of the equipment and performance of the electrical work. The cost for the electrical work is anticipated to run between \$500 and \$1,500 per residence, depending upon the location of outlets and whether the owner would like to have an internal "on/off" switch.

To facilitate the process for interested owners, Tahoe Bear Busters and Leo's Electric, the Association proposes to engage the vendors on behalf of the pertinent owners and then pay the associated costs. The Association then will pass along these costs to the pertinent owners (as a "Reimbursement Assessment" under the CC&Rs). Of course, owners also may procure their own mat and use a separate electrician, should they so prefer, so long as the electrician is duly licensed and has been approved by the Property Manager and the owner bears the costs. Either way, the costs of installing the bear mats should not end up being borne by the Association.

Please do not assume that Yates knows your installation preferences! If you would like Yates to assist in lining up the procurement of a bear mat and the installation of any required electrical improvements, please let Yates know so he can interface with the vendors. Please also let Yates know if you would like an internal on/off switch. **Yates can be reached at rrpoa@sbcglobal.net.**

Owners that ask Yates to assist in this manner should understand that (and shall be deemed to have agreed that) **neither Yates nor the Association is assuming responsibility for the effectiveness of any of the products or work involved with the installation of the bear mats, or for any damages arising out of use of the bear mats.** To the extent an owner later objects in any regard with respect to the installation, effectiveness, safety, use, etc. of the bear mat, his or her claim shall be exclusively with the manufacturers, suppliers and installation professionals, *not with Yates or the Association.*

Other Practical Bear Mitigation Solutions and Measures:

The Bear mats that are the focus of this Proposed Rule are only one solution to the problem presented by the proliferation of Bears in the Tahoe Basin: other preventative measures include:

- Never leave food or trash in your vehicle.
- Lock the doors to your truck, SUV or vehicle.
- Never leave food or food scraps on decks, and be sure to clean and burn food remnants from barbecues when you are finished using the barbecue.
- Be sure that all windows and doors on your unit are locked and secure when you are not in residence, particularly any windows or doors that are easily accessible from the grade or entrance to your home.
- When you or a guest leave your residence, clean out the pantry and the refrigerator of any perishables unless you intend to return in a couple of hours or days.