

# Letter: A review of SnowGlobe regulations

To the community,

SnowGlobe appears to be following the letter of their contract with the city of South Lake Tahoe with the possible exception of holding an after party in Bijou Park. They have also generated revenue for local businesses, employed local residents and donated to local charities. What is not apparent are the current and existing city, county and TRPA plans and regulations which are being ignored and not enforced outside the existing exemption employed by the City of South Lake Tahoe.

When the city of South Lake Tahoe negotiated this event, they entered into the contract the standard exemption (a temporary activity permit) which in theory would allow the city to exempt SnowGlobe from having to meet the normal noise regulations, including those required by the TRPA under the existing MOU between the City and TRPA. (Project Description[1])

## **PROJECT DESCRIPTION**

This is a temporary activity to be held on Monday December 29, 2014 through Tuesday December 30, 2014 from 3:00 pm – 10:00 pm and Wednesday, December 31, 2014 from 4:00 pm to 12:30 am. The SnowGlobe Music Festival is a three day event encompassing local, regional, and national musical artists on three stages. The event will include food and merchandise vending; alcoholic and non-alcoholic items will also be sold. Additional entertainment includes a fireworks show and rail jam exhibition.

### **Submittal:**

- Special Event Application received
- Site Plan received October

**Note:** This is an MOU project and an Exempt/Qualified Exempt Activity as defined in TRPA Code of Ordinances. Temporary Activities within the City of South Lake Tahoe are included in the list of activities in TRPA Code § 2.5-1 to be reviewed by the City of South Lake Tahoe under the Memoranda of Understanding (MOU). Temporary activities are reviewed for compliance with TRPA code Chapter 22 criteria and the South Lake Tahoe City Code.

Unfortunately, the City did not realize that this MOU has defined limits. TRPA requires the city to meet existing requirements for the exemption to apply. These requirements include not holding events that are contrary to existing community plans and which meet defined noise restrictions.

(see the following current TRPA Ordinances[2])

#### **21.2.4. Prohibited Uses**

Proposed uses not listed in applicable plan area statements, community plans, redevelopment plans, Area Plans, and specific or master plans are prohibited. Also, proposed special uses for which the findings in subsection 21.2.2 cannot be made are prohibited uses.

#### **22.6.1. Community Plan Area**

An adopted community plan may set plan standards for temporary activities that are equal or superior to the standards in Section 22.7. Upon adoption of the community plan, the community plan standards for temporary activities, if any, shall supersede the standards in this chapter.

#### **22.7.5. Noise**

Temporary activities are exempt from the noise limitations set forth in Chapter 68: *Noise Limitations*. Notwithstanding the foregoing, prior to approving a temporary activity that may exceed such limitations, TRPA shall provide notice and an opportunity to be heard. TRPA may approve such temporary activities provided it finds that:

- A.** The activity is not injurious or disturbing to the health, safety and general welfare of persons or property in the neighborhood, and the general welfare of the region, and the applicant will take reasonable steps to protect against such injury; and

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#### **TRPA Code of Ordinances**

Adopted by Governing Board December 12, 2012 | Amended December 24, 2017 | Page 22-3

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#### **CHAPTER 22: TEMPORARY USES, STRUCTURES, AND ACTIVITIES**

22.8 Seasonal Projects Distinguished

22.7.6 Traffic Mitigation

- B.** The activity is in a plan area designated commercial, public service, or tourist; is limited to no more than ten hours duration, and is between the hours of 8:00 am to 10:00 pm; or the activity is a race or exhibition, is limited to no more than six hours in duration, and is conducted during daylight hours.

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<sup>2</sup> Tahoe Regional Planning Agency, Code or Ordinances, Effective February 2013

The city established a Bijou/Al Tahoe Community Plan in October of 1995 and has amended this plan as recently as

September 2010. In this plan there are defined goals for the use and development of the area described. The plan describes developing the area as a family friendly residential area. It also includes limits to allowable noise levels as a means of meeting these defined goals. (see following from the Community Plan[3])

**C. BIJOU/AL TAHOE COMMUNITY PLAN GOALS AND OBJECTS**

A fundamental cornerstone of this Community Plan is the conviction that Bijou/Al Tahoe should serve as a family oriented and recreation center, as well as the Town Center for the local community. To accomplish this goal, policies must encourage diversification of recreational and commercial attractions to create the high quality development expected in a family oriented resort area. Public service oriented uses should be further concentrated in this area to enhance the Town Center Concept.

**MAXIMUM CUMULATIVE NOISE LEVEL:** The maximum cumulative noise equivalent levels for this Community Plan Area is as follows:

Land Use Districts	CNEL
1-3 (Bijou, Harrison, Lucky, Payless)	60
4 (Town Center)	60
Shorezone	55
US 50 Corridor	65

The following performance standards for the stationary noise sources or projects will be used to evaluate specific project impacts.

Noise Level Descriptor	Daytime (7am-7pm)	Evening (7pm-10pm)	Nighttime (10pm-7am)
Hourly Leq dB	DST 1-4 SHRZIN 60dB 55dB	DST 1-4 SHRZN 55dB 50dB	DST 1-4 SHRZN 55dB 45dB

Each of the noise levels specified above should be lowered by five dB for simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.

The MOU between the TRPA and the city of South Lake Tahoe clearly states that if a violation is discovered, the city must immediately notify the TRPA and take appropriate actions. Unfortunately, it is the city itself that may be violating the requirements of TRPA’s temporary activity permit. Ironically, the city appears to not have reported their violation or the violations of SnowGlobe with respect to TRPA’s existing noise limits or the limits defined in the established Bijou/Al Tahoe Community Plan.

(MOU violation requirements[4])

Upon discovery of a TRPA Code violation associated with a permit issued by TRPA, Public Entity shall immediately notify the designated TRPA Code Administration staff in writing. TRPA may also perform inspections and determine if a violation exists. Settlements of TRPA Code violations involving civil penalties must be approved by TRPA.

Upon discovery of a TRPA Code violation associated with a permit issued by Public Entity, the Public Entity shall have authority and responsibility to take any and all administrative steps to enforce the standards of the TRPA Code as authorized by this MOU, including the processing of Code violations involving unpermitted activities. If a TRPA Code violation cannot be resolved by the Public Entity on-site, the Public Entity shall contact TRPA to institute TRPA's compliance procedures.

The issues become further complicated when we add the city boundaries into the equation. The city exemptions apply within city limits but require an exemption with El Dorado County for areas that are unincorporated. The houses behind STPUD, along Black Bart and directly adjacent to the SnowGlobe venue are unincorporated. The County also has noise restrictions for these areas and we have found no evidence of any exemptions having been filed with El Dorado County. Residents would be within their right to file a complaint if noise levels went above defined levels.

(El Dorado Noise Regulation[5])



The County has also established noise standards for activities associated with actual construction of a project and restricts major noise producing activities to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, and to the hours of 8:00 a.m. to 5:00 p.m. on weekends and federal holidays. In community regions and adopted plan areas, maximum noise levels from construction activities during these hours shall not exceed 75 dBA  $L_{max}$  at residential land uses, and shall not exceed 90 dBA  $L_{max}$  at commercial, public facility, or industrial land uses.

The County Ordinance establishes that it is unlawful for any person to willfully make, emit, or transmit or cause to be made, emitted, or transmitted any loud and raucous noise upon or from any public highway or public thoroughfare, or from any public or private property to such an extent that it unreasonably interferes with the peace and quiet of another's private property.

**Table 4: Maximum Allowable Noise Exposure for Transportation Noise Sources**

Land Use	Outdoor Activity Areas <sup>1</sup>	Interior Spaces	
	$L_{dn}/CNEL$ , dB	$L_{dn}/CNEL$ , dB	$L_{eq}$ , dB <sup>2</sup>
Residential	60 <sup>3</sup>	45	--
Transient Lodging	60 <sup>3</sup>	45	--
Hospitals, Nursing Homes	60 <sup>3</sup>	45	--
Theaters, Auditoriums, Music Halls	--	--	35
Churches, Meeting Halls, Schools	60 <sup>3</sup>	--	40
Office Buildings	--	--	45
Libraries, Museums	--	--	45
Playgrounds, Neighborhood Parks	70	--	--

**Notes:**

<sup>1</sup> In Communities and Rural Centers, where the location of outdoor activity areas is not clearly defined, the exterior noise level standard shall be applied to the property line of the receiving land use. For residential uses with front yards facing the identified noise source, an exterior noise level criterion of 65 dB Ldn shall be applied at the building facade, in addition to a 60 dB Ldn criterion at the outdoor activity area. In Rural Regions, an exterior noise level criterion of 60 dB Ldn shall be applied at a 100 foot radius from the residence unless it is within Platted Lands where the underlying land use designation is consistent with Community Region densities in which case the 65 dB Ldn may apply. The 100-foot radius applies to properties which are five acres and larger; the balance will fall under the property line requirement.

<sup>2</sup> As determined for a typical worst-case hour during periods of use.

<sup>3</sup> Where it is not possible to reduce noise in outdoor activity areas to 60 dB Ldn/CNEL or less using a practical application of the best-available noise reduction measures, an exterior noise level of up to 65 dB Ldn/CNEL may be allowed provided that available exterior noise level reduction measures have been implemented and interior noise levels are in compliance with this table.

Source: El Dorado County. 2004. *El Dorado County General Plan, Public Health, Safety, and Noise Element*. July 19.

Despite having an exemption to city noise regulations, the city of South Lake Tahoe is likely violating TRPA noise requirements for a temporary activity permit as defined by the MOU between the TRPA and the city of South Lake Tahoe. The city is also not following the established noise limits defined in the Bijou/Al Tahoe Community Plan. Finally, the city is likely violating El Dorado County noise restrictions. None of the existing regulations allows for loud sounds above ~60 dBs after 10pm and El Dorado County limits sound after 5pm on federal holidays and weekends.

If the city continues with the existing contract with SnowGlobe, they will likely be violating local regulations (as

they have these past seven years). Should they proceed with the contract as it is currently written, the city risks being sued by SnowGlobe for breach of contract if either the TRPA or El Dorado County elect to enforce existing noise regulations. If the city does elect to renegotiate the contract, they will need to either meet the existing regulations with lower decibel (dB) levels and earlier sound cut-off times or arrange to exempt the SnowGlobe event from TRPA noise limits, county noise limits and the city's own community plan. Immediately ending the contract may be the easier choice for the city of South Lake Tahoe as the 2018 event will violate these existing regulations as things currently stand. Even if the contract can be renegotiated, it is unlikely SnowGlobe will be able to lower sound levels and shut down earlier given existing contracts they likely have with their artists.

**Scott Ramirez, South Lake Tahoe**