

AGENDA DESCRIPTION: Consideration and possible action to receive and file a report on the City's enforcement of the prohibition of short-term rentals, including initiating a Code Amendment to add language that bolsters the enforcement of the City's prohibition of short-term rentals.

RECOMMENDED COUNCIL ACTION:

- (1) Receive and file an update report on the City's enforcement of the prohibition of short-term rentals in the City;
- (2) Direct Staff to continue working with the Planning Commission in preparing code amendment language that further bolsters the enforcement of the City's prohibition of short-term rentals; and,
- (3) Direct the City Attorney to amend RPVMC Section 1.08.010(B) and Section 1.16 to increase the penalty fines to the maximum extent possible for the violation of the City's prohibition of short-term rentals.

FISCAL IMPACT: As a result of a comprehensive code enforcement program to address unpermitted short-term rentals, Staff anticipates that approximately \$27,000 - \$30,000 (non-benefitted, maximum 950 work hours annually) would have to be allocated for the annual salary of a part-time Code Enforcement Officer.

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APPROVED BY: Doug Willmore, City Manager *DW*

ATTACHED SUPPORTING DOCUMENTS:

- A. RPVMC Chapter 9.24 "Law Enforcement Expended Caused by Unruly Parties and Gatherings" (page A-1)
- B. Public Comments received since September 20, 2016 (page B-1)

All previous Staff Reports, Meeting Minutes, and public comments on this topic can be found on the City's website via the September 20, 2016, City Council Agenda at <http://www.rpvca.gov/772/City-Meeting-Video-and-Agendas>

BACKGROUND AND DISCUSSION:

At the September 20, 2016, City Council meeting, the City Council affirmed that the City's Development Code is a permissive code, in that if a land use is not specifically identified as a permitted use, then it is to be considered as prohibited. In doing so, the City Council determined that short-term rentals (a rental of less than 30 days) are

prohibited within the City's Single-Family Residential Zoning Districts since they are not enumerated as a permitted use. At the meeting, the City Council directed Staff to return with any necessary processes, code amendment language updates, or code enforcement steps to enforce the ban.

Enforcement of the City's Prohibition of Short Term Rentals

Soon after the September 20, 2016, City Council meeting, the City's Code Enforcement Division began to enforce the prohibition, as summarized below:

1. Cease and Desist Letters: On September 27, 2016, the City sent out the first batch of letters to eleven (11) property owners known to host short-term rentals in the City that have received multiple resident complaints. The notice informed property owners that short-term rentals are prohibited, and that such must cease and desist immediately. In order to send out the next batch of letters to the remaining host property owners (estimated to be approximately another 70 properties), Staff intends to canvass the various website host platforms to identify where these properties are located. This research can be done by Staff, but it will likely be time consuming and challenging in that addresses are not usually posted on the host platforms. Furthermore, because there is only one Code Enforcement Officer who will be managing this assignment along with the other tasks (i.e. property violations, peafowl management plan, coyote management plan, and other responsibilities), this will likely occur in phases over the next several months. Alternatively, the City Council may consider hiring additional part-time Staff to assist with the enforcement of the short-term rental prohibition.¹ The annual cost of this part-time position is estimated to be \$27,000 to \$30,000. Alternatively, the City could look at contractors who may be able to provide this service.
2. Public Outreach: In order to ensure that the community is aware of the ban, the City will be launching a public campaign to raise awareness of the short term rental prohibition. In addition to posting information on the City's website and social media platforms (Facebook and Nextdoor), the City intends to meet with the Rancho Palos Verdes Council of Homeowners Associations (CHOA) and individual homeowners associations in the coming months to explain the prohibition. An article will also be published in the City's next quarterly newsletter. Increased public awareness will assist City Staff with the enforcement of the prohibition because residents will most likely self-police this activity by reporting it to the City.
3. Collaborating with Other Beach Cities: The majority of the South Bay beach cities have banned short-term rentals and are experiencing similar challenges in enforcing the prohibition. Staff has been communicating and collaborating with other local

¹ Staff previously reported that there was an outside vendor (Host Compliance) that could assist the City in providing the enforcement service at a nominal cost. However, Staff has recently learned that this vendor is no longer providing such services.

beach cities to better understand how the enforcement of the prohibition can occur in a more efficient and enforceable manner. On September 26, 2016, City Staff attended a South Bay Cities Council of Government (SBCCOG) meeting to discuss the issue of short-term rentals in the area. At the meeting, representatives from various cities throughout the South Bay exchanged information related to short-term rental complaints, enforcement costs, options and challenges, as well as greater involvement by the SBCCOG to bring awareness to the issue. At this meeting, it was agreed to continue to meet on a regular basis to exchange information. The next meeting will occur in December 2016.

On October 6, 2016, City Staff also attended a roundtable meeting in the City of Newport Beach, at which additional information was shared by Orange County cities, regarding their efforts and strategies to address short-term rentals. At the meeting, representatives from the cities of Anaheim and Irvine also provided an update on enforcement challenges related to their approaches in regulating short-term rentals. Many of the cities that attended the meeting indicated that their current enforcement programs required code amendments to bolster enforcement capabilities, as well as additional staff to assist in the enforcement efforts.

4. Collaboration with the Sheriff's Department: Staff recently met with Captain Beringer of the Los Angeles County Sheriff's Department (LASD) in order to discuss short-term rental concerns, and to identify effective strategies to collaboratively address complaints associated with short-term rentals in the City. At the meeting, Staff learned that the LASD would not be able to easily enforce the prohibition because it would be very difficult to prove that a guest staying at a host property is using a short-term rental without obtaining a copy of the contract, which would require the lengthy process of obtaining a subpoena. However, Captain Beringer did point out that Chapter 9.24 of Rancho Palos Verdes Municipal Code (RPVMC) codifies an "Unruly Parties and Gatherings" ordinance that would allow the LASD to cite and for the City to collect expenses from property owners for extraordinary law enforcement services when responding to unruly parties, gatherings or other assemblages of persons on private property (Attachment A). In addition, Staff agreed to provide the Sheriff's Department with a list of known short-term rentals in the City, in order for the Sheriff's Department to create a database to monitor calls for service related to short-term rental activities, and to allow for the exchange of information with the City for reporting purposes.
5. Prosecution of Short-Term Rental Ban: Once the City has amended its code to prohibit the advertising of short-term rentals, the City has at least two (2) paths to enforce its ban. The City could criminally prosecute short-term rental advertisers or operators by filing a misdemeanor complaint against the responsible party. Criminal prosecution would allow the City to seek up to \$1,000 per violation or per day of non-compliance. The City could also issue Administrative Citations under RPVMC Chapter 1.16. This administrative process could be handled internally by Staff with assistance from the City Attorney's office. It is important to note that criminal

prosecution and administrative citation processes are not mutually exclusive, and the City could opt to pursue both processes.

Proposed Code Amendments

A robust enforcement framework is essential in achieving successful implementation of the short-term rental ban. A key component of an effective enforcement program includes a comprehensive code amendment, which expressly prohibits short-term rental activities, including the advertisement of such use. As such, Staff has identified possible code amendments that the City Council might consider to enhance the enforcement of the City's prohibition of short-term rentals:

1. Prohibiting the Advertisement of Short-Term Rentals: An effective strategy in the enforcement of eliminating short-term rentals throughout the City is to prohibit the advertisement of such uses. Typically, the availability of a short-term rentals is advertised on a host websites such as Airbnb and VRBO. Prohibiting the advertisement of a short-term rentals in the City's Single-Family Residential Zoning Districts will allow the City to cite a property owner that advertises this prohibited use. It should be noted that the burden of compliance with the advertisement prohibition should not be placed on the website host platform, but rather on the property owner. If desired, the City Council could direct Staff to continue working with the Planning Commission to prepare code language that prohibits the advertisement of short-term rentals.
2. Creating a Prohibited Use List in the Development Code: The City's Development Code is considered to be a permissive code, meaning that if a use is not identified as permitted, then it is assumed to be prohibited. In order to provide further clarification as to whether a use is permitted or not, consideration should be given to the possibility of amending the Development Code (Title 17) to establish lists of prohibited uses within the City's various zoning districts. If desired, the City Council could direct Staff to continue working with the Planning Commission to prepare code language that includes lists of unpermitted uses.
3. Increasing Penalties for Short-Term Rental Violations: RPVMC Section 1.08.010(B) code violations as infractions, which typically range from \$100 for a first violation to a fine not exceeding \$1,000 for any conviction for a violation of a City building and safety code. While such infraction amounts assist in deterring individuals from engaging in activities that violate the code, in the case of short-term rentals, consideration should be given to pursuing a code amendment to increase infraction amounts to be more punitive and reflective of the potential revenue that may be collected from conducting short-term rental activities. If desired, the City Council could direct the City Attorney to amend RPVMC Section 1.08.010(B) to increase the penalty fine to the maximum extent possible for the violation of the City's prohibition of short-term rentals. In addition, the City Council could direct the City Attorney's office to amend RPVMC Chapter 1.16, which provides for the imposition of

administrative penalties, to increase the penalty fine to the maximum extent possible for the violation of the City's prohibition of short-term rentals

PUBLIC COMMENTS:

Since the September 20, 2016 City Council Meeting, Staff has received several public comments (Attachment B) regarding the City's affirmation that short-term rentals are not permitted within the City's Single-Family Residential Zoning Districts. The comments generally support the City Council's recent actions regarding short-term rentals, as well as provide notification regarding properties in the City that are offering short-term rentals.

CONCLUSION:

Since the City Council's affirmation that short-term rentals are prohibited in the City's Single-Family Residential Zoning Districts, Staff has taken steps to notify property owners in the City of known violations. In addition, Staff has continued to gather additional information on the best enforcement practices to address short-term rental violations. As a result, Staff has outlined possible code amendments for the City Council's consideration to bolster the City's code enforcement framework to prohibit short-term rentals in the City's Single-Family Residential Zoning Districts.

ALTERNATIVES:

In addition to the Staff recommendations, the following alternatives are available for the City Council's consideration:

1. Identify additional options for Staff to research for Council consideration at a future meeting; or
2. Direct Staff to take no further action at this time.