



Staff Report

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Honorable Mayor and Members of the Hermosa Beach City Council Regular Meeting of June 14, 2016

APPROVE ENFORCEMENT PROGRAM FOR SHORT TERM VACATION RENTALS AND ADOPT RESOLUTION AMENDING THE MASTER FEE SCHEDULE TO: ESTABLISH FINES FOR VIOLATIONS RELATED TO RENTAL OF RESIDENTIAL PROPERTIES FOR LESS THAN THIRTY DAYS; ESTABLISH FINES RELATED TO VIOLATIONS OF THE SOCIAL HOST ORDINANCE; AND ESTABLISH ADMINISTRATIVE FEES FOR DRONE PERMITS
(Community Development Director Ken Robertson)

Recommended Action:

1. Direct staff to commence the proposed enforcement program for short term vacation rentals (STVRs), or direct staff on alternative approaches or timelines, or defer discussion on parts of the program until after the initial focus on deterring and eliminating advertising of rentals.
2. Adopt the attached resolution amending the master fee resolution to establish fines for violations of STVR ordinance and the Social Host Ordinance, and to establish administrative fees for drone permits.

Background:

On May 10, 2016, City Council introduced and subsequently adopted Ordinance 16-1365, the "STVR Ordinance," which clarified existing regulations that prohibit renting homes in residential zoning districts for less than 30 consecutive days at a time as well as prohibiting advertising for said rentals (STVRs). Council also directed staff to develop an effective and proactive enforcement program to fully inform property owners and renters of the City's new program and its consequences, to establish administrative fines commensurate with the offense, and to prosecute violations of the ordinance after sufficient warning.

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On April 26, 2016 the City Council introduced and subsequently adopted Ordinance 16-1364, the "Social Host Ordinance," providing that any responsible person who allows underage persons to consume or possess alcoholic beverages in a residence or other private property, except under the supervision of a parent or guardian in connection with a cultural or religious activity, could be issued an administrative citation.

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On April 26, 2016 the City Council introduced and subsequently adopted Ordinance 16-1363, the "Drone Ordinance," which imposes operating restrictions on drones, unmanned aircraft and model aircraft in order to protect the safety and welfare of residents, and requires an operator to obtain an annual permit.

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Analysis:

Education and Outreach regarding STVRs

Community Development staff and the City's Public Information Officer will develop a communication plan to make clear what is prohibited, when it goes into effect, and the consequences of violations. The goal will be to make awareness as widespread as possible and to encourage neighbors to report information that can help staff identify possible violators.

- Mailers to all business and property owners, as well as renters and tenants in the city (part of a city-wide information mailer including other new programs and ordinances such as smoking in public, social host ordinance, drones, etc.)
- All print and social media.
- Posting notice of this new program prominently on our website.
- Targeted groups and associations (such as Board of Realtors, Hermosa Beach tourists' sites and publications, Chamber of Commerce, etc.)
- Neighborhood groups (i.e. neighborhood watch) Kiwanis, Rotary, etc.

Staff recommends that the education and outreach commence immediately, and will clearly state that formal investigations and notifications described below will commence in August 2016. This will effectively allow a "grace" period through the summer on existing rentals that are booked. This will not stall or suspend any existing code enforcement efforts against problem offenders where the City has received nuisance-related complaints.

Investigation of STVRs

Fully engage all available information sources and services to keep an updated list of owners/properties advertising STVRs in Hermosa Beach.

The City will be entering into a contract with a firm that specializes in gathering information on STVRs from various websites to assist municipalities in enforcing and regulating the practice of STVRs. Part of this service is to compile weekly running lists of properties advertised on the STVR market. New technology is being developed to access the data necessary to identify and monitor the activity of specific addresses since this information is not provided by the "home sharing" websites.

The program being considered includes compiling the property and property owner addresses, sending legal notices, providing on-line evidence of violations (calendars showing less than full month reservations) and monitoring STVR websites. This service would provide City staff with the ability to identify, notice and, if needed, prosecute offenders.

Staff will revamp the complaint system to ensure that nuisance complaints that originate with a STVR are tracked as an STVR rather than noise or another type of complaint. Staff will also make proactive

visits and reconnaissance where known problems and abuses have occurred, and respond to complaints about residential units with general nuisances associated with STVRs.

STVR Notification to Property Owners in Violation

The City will send two letters to owners whose property is advertised as a STVR. The first letter, sent via regular mail, will inform the owner of the new ordinance and request compliance. The second, sent via regular and certified mail 2 weeks later, will be a notice of intent to prosecute for the violation. Hopefully, these two notices will reduce the reported current listings to a more manageable number. A STVR investigation company recently identified as many as 351, while previous research conducted by staff found between 200-250. More importantly, they establish “legal notice” of the violation to the owner which enhances any future enforcement effort. Once the initial two notices are sent, a citation will be issued for those continuing to advertise as shown by the City’s updated list.

While the ordinance prohibits advertising and occupying STVRs, staff believes the most efficient way to pursue these violations is to hold the property owner accountable by using advertising as evidence. As in other building and municipal codes, the property owner is responsible for the condition and use of the property. Pursuing the tenants is time consuming and not very productive, as they frequently avoid answering the door, and often claim to be staying rent-free.

Building Cases for Prosecution of STVRs

As noted above, the City through its service provider will generate weekly lists of those properties and owners that continue to be in violation after the first two letters have been sent. The list will contain posted photos of the property as well as “street view” photos from other sites to positively identify the building. Also included will be posted calendars showing that the unit was rented for less than 30 days. City staff (Code Enforcement Official and Officers) will prioritize buildings with a history of complaints as the first referrals to the prosecutors.

The package, including the two warning letters and certified mail receipts, maps, calendars, any written complaints and field observations, will be sent to the prosecutor’s office, which due to work load and staffing, can handle five such cases per month. They are willing to take the case to court based on two letters and one citation, which will greatly reduce the time between first notice and a court date.

Penalties for STVRs, the Social Host Ordinance, and Drone Ordinance

The number one goal is deterrence. Every step of the process should give anyone reason to abate the practice to avoid the consequences. Imperative to deterring illegal STVR activity is a substantial fine, particularly in light of the lucrative nature of the business. Otherwise, insufficient fines could simply be absorbed as part of the cost of doing business.

Council directed staff to recommend fines regarding STVRs and the Social Host Ordinance. Recommended fines for both are \$2,500 for the first violation, \$3,000 for the second violation, and \$3,500 for the third violation. For STVRs, these fines are roughly commensurate to rates advertised for a weekend at a STVR property at or near the beach. With respect to the Social Host Ordinance, recommended fines are based on fines imposed in other cities, and with the intent that the fines be high enough to serve as a strong deterrent. Violations of the Drone Ordinance are treated as a misdemeanor.

If a STVR case goes to trial an alleged violator will ultimately be subject to the Judge's determination on whether a fine, probation, or other criminal penalties are appropriate. The prosecutor's office advises that a violator may need to be called to court repeatedly before the Judge would impose a penalty harsh enough to terminate the practice. These cases need to be tested in court.

Drone Permit Fees

Recommended fees for issuance of permits for the operation of drones, unmanned aircraft and model aircraft are \$145 for the initial permit, and \$75 for annual renewal. The intent of the proposed fee amount is to cover the cost of permit issuance. Violations are a misdemeanor, with Judge-imposed penalties of up to \$1,000 and/or 6 months jail time.

STVR Monitoring

Continuous monitoring of the number of postings on internet sites, number and types of neighbor complaints, and the overall incidence of nuisance impacts will measure the success of the program. Weekly updates from a service provider, accessible on their website, will be monitored by the Code Enforcement Official and Officers. The lists will be prioritized for action based on number of complaints received for a particular address and repeat offenders. It is anticipated that a Judge who encounters the same violator repeatedly will tend to increase penalties against that individual.

Once the prioritized property owners have been identified from the list, the appropriate notice or citation will be issued. These will be included in the package sent to the prosecutors to demonstrate ongoing activities in violation of the code.

Conclusion

The STVR enforcement program with the penalties outlined above is intended in the near term to deter and eliminate advertising of STVR's and in the longer term significantly reduce or eliminate STVRs within Hermosa Beach's residential zoning districts, pursuant to the ordinance. However, the information age and new developments in the "sharing economy" make it nearly impossible to anticipate what future practice might emerge that circumvents City regulations and cause STVRs to persist. Staff suggests that this ordinance and enforcement program be reviewed by Council one year after program implementation.

Fiscal Implications:

Proactive implementation of the STVR enforcement program, along with other code enforcement priorities, including late night establishments, construction activity, no-smoking, and the new A-Frame sign ordinance, demonstrate the need for two additional code enforcement officers, as proposed in the Fiscal Year 2016-17 budget which is currently being considered by the Council. It is not anticipated that STVR or other fines will cover an appreciable amount of enforcement costs.

Cost of hiring a consultant to provide STVR activity monitoring services (including address identification, monitoring for signs of rental activity, sending violation letters), is estimated at \$25,000. The proposed budget estimated \$10,000 for this service, so additional funds can be transferred from prospective expenditures in the Fiscal Year 2016-17 budget.

Attachments:

1. Draft Resolution establishing fines for the STVR Ordinance, fines for the Social Host Ordinance, and permit fees for the Drone Ordinance
2. Example of Service and Price Package from a STVR Monitoring Service Provider

Respectfully Submitted by: Bob Rollins, Chief Building and Code Enforcement Official; Kim Chafin, Senior Planner

Concur: Ken Robertson, Community Development Director

Concur: Sharon Papa, Chief of Police

Noted for Fiscal Impact: Viki Copeland, Finance Director

Legal Review: Mike Jenkins, City Attorney

Approved: Tom Bakaly, City Manager