



## Staff Report

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File #: REPORT 19-0510, Version: 1

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**Honorable Mayor and Members of the Hermosa Beach City Council  
Regular Meeting of September 10, 2019**

**CONSIDERATION OF A MUNICIPAL CODE AMENDMENT TO  
ESTABLISH A TWO-YEAR PILOT PROGRAM TO ALLOW AND  
REGULATE SHORT-TERM VACATION RENTALS IN EXISTING  
NONCONFORMING RESIDENTIAL UNITS THAT ARE  
LOCATED WITHIN COMMERCIAL ZONES  
(Community Development Director Ken Robertson)**

**Recommended Action:**

Staff recommends that the City Council:

1. Introduce the attached ordinance to amend various sections of Title 17 of the Hermosa Beach Municipal Code, thereby establishing a two-year pilot program to allow and regulate short-term vacation rentals in existing non-conforming residential units that are located within commercial zones; and
2. Approve the amendment to the master fee resolution to establish permit fees for short-term vacation rentals.

**Executive Summary:**

In 2016, the City Council adopted an ordinance prohibiting short-term vacation rentals in residential zones. The proposed ordinance will allow a two-year pilot program to allow and regulate short-term vacation rentals in non-conforming residential dwelling units on commercially zoned properties. When last considered in March 2017, the City Council provided specific direction to staff on amending the proposed code text. This text amendment includes changes to address the Council's concerns.

**Background:**

A short-term vacation rental is the rental of a dwelling unit or a room in a dwelling for compensation by way of a rental agreement, lease, license or any other means, whether oral or written to a person or group of persons for temporary overnight accommodations for a period of less than thirty (30) consecutive days. Over the past several years, the growth of the short-term vacation rental industry has exploded. With over eight million units available worldwide, it is estimated that 25% of travelers use a short-term vacation rental.

These rentals have their benefits such as providing additional capacity to accommodate tourists, allowing an owner to generate income from an under-utilized dwelling unit, and generation of transit

occupancy tax revenue. However, they also come with potential problems, such as, loss of affordable housing, creation of “commercial party houses,” occupants creating a public nuisance through trash and noise, and changes to the neighborhood character. To avoid these impacts, it is critical for local jurisdictions to consider appropriate regulations if allowing the operation of short-term vacation rentals.

In March 2016, the Planning Commission directed staff to: 1) set a public hearing to consider a text amendment to clarify the existing regulations that prohibited short-term vacation rentals in residential zones; and 2) analyze the feasibility of allowing short-term vacation rentals within non-conforming residential units within commercially zoned properties.

The Planning Commission, and later the City Council, conducted public hearings to consider the ban on short-term vacation rentals in residential zones. These hearings culminated with the City Council introducing Ordinance 16-1365, on May 10, 2016, which clarified the existing City regulations that prohibited short-term vacation rentals in all residential zones. Ordinance 16-1365 was subsequently adopted on May 24, 2016.

Staff initially presented the potential to allow short-term vacation rentals within non-conforming dwelling units on commercially zoned properties to the Planning Commission on June 21, 2016. The Commission conducted further discussions to consider a potential change to the municipal code on September 20, 2016, November 15, 2016, and December 12, 2016. A summary of the Planning Commission’s concerns and action is discussed below in the Discussion Section of this report.

On March 28, 2017, the City Council conducted a public hearing to consider a text amendment to the municipal code to establish a two-year pilot program to allow short-term vacation rentals in non-conforming residential dwelling units on properties that are commercially zoned. At the conclusion of the hearing, the City Council directed staff to:

1. Report back at a future public hearing with a draft text amendment ordinance to establish a 24-month pilot program to define, allow, and regulate short-term vacation rentals.
2. Amend the proposed regulations to stipulate that more than three violations of any of the City’s quality of life ordinances (not just violations of the subject ordinance) within a 12-month period shall result in revocation of business license.
3. Provide options for Council consideration on the following as-yet-undetermined elements that require further Council discussion, which include:
  - a. Management and Operations Plan provisions
  - b. Posting of an identification plaque at all times and ensuring visibility from public right-of-way
  - c. Provision of a 24-hour/day contact person to respond to calls within 45 minutes
  - d. Requirement of a private kitchen area in each unit
  - e. Establishment of a parking requirement

- f. Whether pilot program be allowed citywide or limited to specific area
4. Provide written public notice to properties located within a 200-foot radius of each nonconforming residential dwelling unit on commercially zoned properties.

A draft of this report was distributed to the City Council on August 27, 2019. Since circulation of the draft report, staff has heard numerous concerns about short-term vacation rentals operating in the C-1 zone. Concerns received include:

- There could be confusion on properties with mixed-use developments. (Residential units in these developments are not non-conforming, therefore will not be allowed to contain a short-term vacation rental.)
- The close proximity of buildings in the C-1 zone to the adjoining residential properties.
- Other similar visitor serving accommodations, such as hotels and motels, are not permitted in the C-1 zone.

In retrospect, staff feels it would be prudent to exclude short-term vacation rentals from the C-1 zone. Staff has modified the draft ordinance and map of potential sites accordingly.

### **Discussion:**

Based on a windshield survey conducted by staff in 2016, which was later bolstered by two Planning Commissioners who volunteered to conduct additional research, there are 145 non-conforming dwelling units on 50 commercially zoned properties in the City (excluding the C-1 zone). Of these dwelling units, 79 are located on 27 properties within the coastal zone. The reason so many of these uses exist in the commercial zones is prior to approximately 1980, the City allowed residential uses in commercial zones, under the prevailing practice at the time that any use of lower intensity than the primary permitted use was still allowed. Now, residential uses have been largely precluded in commercial zones with the exception of the allowance for mixed-use projects in the C-1 zone.

### **Coastal Act**

The Coastal Act does not specifically require the City allow short-term vacation rentals and the Coastal Commission has not taken formal action requiring jurisdictions to provide for them in the Coastal Zone. Nevertheless, the Coastal Commission has noted that the regulation of (including a ban) falls into the context of the local coastal program and has rejected amendments to Local Coastal Programs that include a complete ban on short-term vacation rentals. In December 2016, the City received a letter from Chair of the Coastal Commission (**Attachment 4**) that states, "...the Commission has not historically supported blanket vacation rental bans under the Coastal Act, and has found such programs in the past not to be consistent with the Coastal Act." While the Coastal Commission considers short-term vacation rentals as a lower-cost accommodation, there are no mechanisms available to the City or the Coastal Commission to regulate prices; however, the Coastal Commission believes that short-term rentals may be considered a low-cost visitor accommodation as they often:

- offer a greater range of accommodation types and sizes-making accommodations available to a more diverse range of groups or families;
- offer shared accommodations or room rentals-making smaller accommodations available to single travelers; and
- include facilities for cooking or meal preparation-reducing overall travel costs by allowing visitors to prepare their own meals.

While not all accommodations may be lower-cost, the factors noted above can help to enhance access to the coast to a broader group of potential visitors.

It is important to note that the City is in the process of trying to obtain Coastal Commission approval of our Local Coastal Program. Staff believes that program would help meet the Coastal Commission's desire to provide low-cost accommodations.

#### Proposed Changes to Municipal Code

In order to accommodate some short-term vacation rentals in the City while protecting the City's very dense residential zones, staff has prepared an ordinance to amend various sections of Title 17 of the Hermosa Beach Municipal Code. These recommended changes will not alter the prohibition of short-term vacation rentals in the residential zones.

The recommended changes to the code have been derived from testimony and direction in the previous public hearings. The specific code language is in the attached ordinance; however, the following is a summary of staff's recommendations:

1. Short-term vacation rentals will be allowed only during the two-year pilot program period. The start of the pilot program will begin on the effective date of the ordinance (30-days after the second reading) and will cease automatically unless the City Council either deletes or extends the sunset date prior to the expiration of the pilot program.
2. The permitted use tables will be modified to allow short-term vacation rentals within the following zones: C-2, C-3, and Specific Plan Areas 7, 8, and 11.
3. Short-term vacation rentals will only be permitted in existing non-conforming residential units in the above-mentioned commercial zones. The establishment of new residential units in these areas is prohibited; as such, there will be no increase in the potential number of units that could be used for short-term vacation rentals.
4. Prior to establishing a short-term vacation rental, the operator shall obtain approval of an Administrative Permit from the City, which will be required to be renewed annually. As part of the permitting process, the Building Official will inspect the site to ensure compliance with the Building Codes. The applicant will be responsible to pay all required application and inspection fees.
5. Prior to the City issuing an Administrative Permit, the applicant will be required to obtain

approval of a Management and Operations Plan, which will be kept on file with the City. The plan will need to include the following:

- a. Identify reasonable and prudent business practices that will be employed to ensure the short-term vacation rental unit is used in a lawful manner.
- b. Provide a legible identification plaque within plain view that contains pertinent information about the unit, such as, the property address, permit number, and telephone number for the Police Department Dispatch to allow complaints regarding condition, operation or conduct of occupants of the unit.
- c. The name, address and telephone number of a local contact person who shall be available 24 hours per day, seven days per week for the purpose of responding within 45 minutes to City staff calls pertaining to complaints regarding the condition, operations, or conduct of occupants of the short-term rental or their guests.
- d. Identify reasonable and prudent business practices that will be employed to ensure that the occupants of the short-term vacation rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation pertaining to the use and occupancy of the short-term vacation rental unit.
- e. The owner or their authorized agent shall respond in a timely manner to any notification that the occupants of the short-term vacation rental are creating unreasonable noise, disturbances, engaging in disorderly conduct, or breaking any law to halt or prevent a recurrence of the conduct.
- f. Identify reasonable and prudent business practices that will be employed to ensure the short-term vacation rental unit is used for overnight accommodations only. This shall include using all prudent business practices to prohibit the rental to commercial party businesses.
- g. Prior to occupancy of a short-term vacation rental unit, the owner or their authorized agent shall do all of the following:
  - Obtain the contact information of the renter. This information shall be retained for three years and made available to the City upon request.
  - Provide a copy of the City's "Good Neighbor" brochure containing these requirements to the renter.
  - Require the renter to execute a formal acknowledgement that he or she is legally responsible for compliance by all occupants of the short-term vacation rental unit and their guests with all applicable laws, rules and regulations pertaining to the use and occupancy of the short-term vacation rental unit. This information shall be retained for three years and made available to the City upon request.
- h. Provide a plan to ensure the property shall be maintained free of litter and debris.

- i. Ensure that onsite parking will only be permitted on an approved driveway, parking space, garage and/or carport areas only.
  - j. Ensure approved onsite parking space(s), including all enclosed garages, are kept free and clear to accommodate vehicular parking for renters/guests during all times the unit is in use as a short-term vacation rental.
  - k. Limit the number of adult occupants allowed to occupy any given short-term vacation rental unit to two adults per bedroom/sleeping area.
  - l. Require that all written publications or any website that promotes the availability or existence of the short-term vacation rental unit include the permit number and the number of approved parking spaces.
6. Require the operator of the short-term vacation rental to obtain a business license for the unit (s) and shall pay all applicable Transit Occupancy Taxes.
  7. Establish a parking standard for short-term vacation rentals at a rate of one parking space per bedroom, with a maximum of two parking spaces required, and require all units to meet the onsite parking requirement. For mixed-use properties, the site will need to provide sufficient parking to accommodate all uses.
  8. Require each unit to have a kitchen, a bathroom, and a designated sleeping area.
  9. Subject the violation of any section of this short-term vacation rental ordinance to administrative citations and provide a provision that allows revocation of the administrative permit and business license with three or more violations of this ordinance or any other City quality of life ordinance within a 12-month period.
  10. Require any short-term vacation rental that is in operation in the commercial zones at time of the adoption of the ordinance to obtain all required permits within 180 days or cease operation.

#### Planning Commission

As previously noted, the Planning Commission conducted its final public hearing on the text amendment on December 12, 2016. During the hearing, the Commission made the following comments in support of allowing short-term vacation rentals:

- Providing short-term vacation rentals will enhance coastal access, which is consistent with the Coastal Act.
- This amendment would provide an opportunity to legalize and standardize these alternative modes of short-term accommodations.
- The City would collect Transient Occupancy Tax (TOT) from short-term vacation rentals.
- If violations continue to occur at a location, the City would have the ability to revoke a license.
- Various Commissioners clarified that short-term vacation rentals would be held to the same

level of standards as hotels; therefore, many of the issues and concerns related to disturbances raised by the Commission and residents would both be alleviated and mitigated.

The following comments were made in opposition to allowing short-term vacation rentals:

- All Commissioners had concern about the timing of this discussion and necessary action with the City currently enforcing its active ban of STVRs in residential zones citywide.
- Preference from various Commissioners was to focus on residential ban and potentially revisit at a date unknown the discussion of the existing stock of nonconforming residential uses located within commercial zones.
- Belief that the proposed ordinance is a faulty land use decision because the ordinance may create an incentive to maintain and operate non-conforming residential units in commercial zones and that concerns expressed by the Commission and residents may be resolved if the use and structure were built and operated as a hotel with onsite management, cleaning services, etc.
- It was expressed that land use decisions should be done at a local level as opposed to state level.
- Concern that the City may be approving an ordinance based on speculation that the ordinance will solve a problem and that until the City receives a definitive answer from Coastal Commission or case law is established regarding affordable accommodations, this land use discussion should be put on hold.
- It was expressed that coastal access is not of concern as the City has existing hotel accommodations for visitors, Hermosa's beaches are open and accessible to residents and visitors, and parking accommodations are free or reasonably priced throughout the coastal zone.

After considering all the oral and written testimony provided to them over the four meetings, the Planning Commission voted 3-2 not to adopt the resolution recommending the City Council adopt a text amendment to regulate short-term vacation rentals in existing nonconforming residential units located in commercial zoning districts.

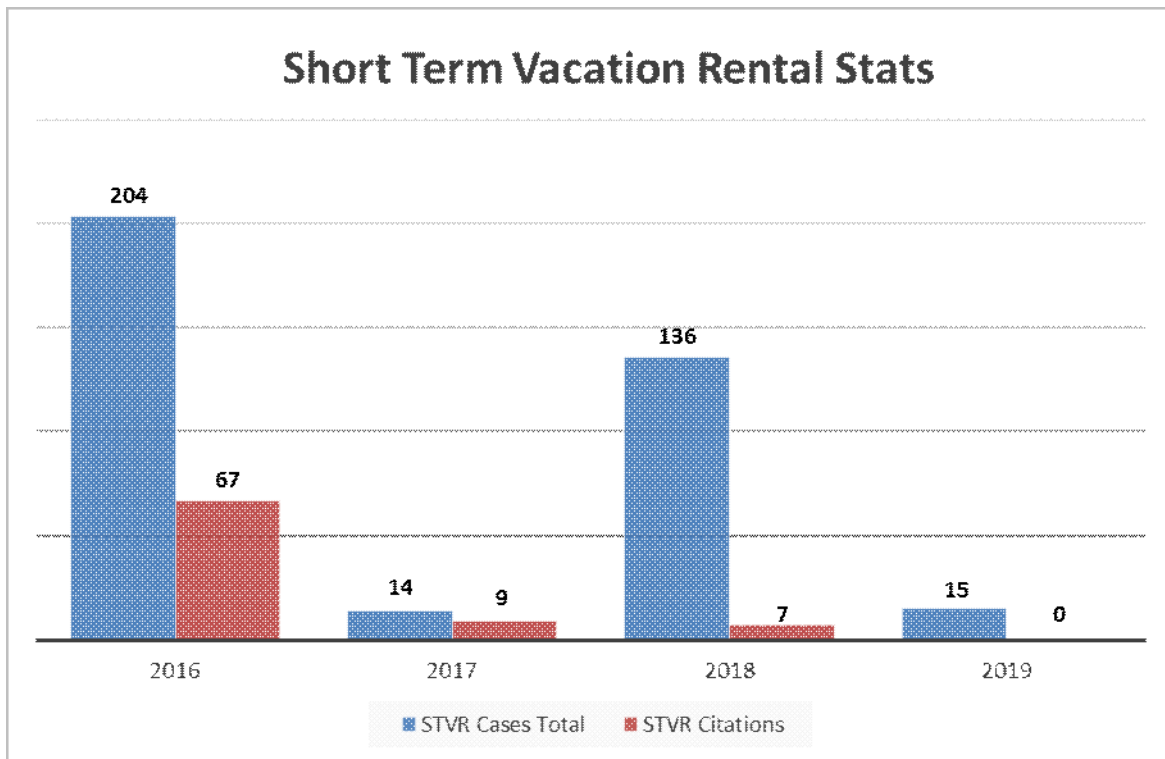
#### Code Enforcement Actions

Since the initiation of the 2016 prohibition, the City's Code Enforcement staff has been actively pursuing compliance of illegal short-term vacation rentals operating in residential zones. To assist with this task, the City contracts with Host Compliance, who monitors the virtual plethora of websites that offers short-term vacation rental listings. Upon finding a new listing, Host Compliance issues a letter to the owner to notify them of the violation. If the owner fails to comply within 30 days, a second letter is issued by Host Compliance. Continual noncompliance will result in the City pursuing all legal remedies, including issuing citations and prosecution. This proactive approach has resulted in:

- Code Enforcement opening 369 cases for unpermitted short-term vacation rentals, of which resulted in 83 citations.

- As a result of the hard work of Code Enforcement staff, only three cases currently remain active.

It is important to note that the City is not currently enforcing against short-term vacation rentals in the commercial zones, pending the outcome of this request. Nevertheless, since implementation of the enforcement program, the number of short-term vacation rentals in the City has drastically decreased.



With the recent addition of a second fulltime Code Enforcement Officer, the City will be able to enhance the proactive enforcement of short-term vacation rentals. This will also allow Code Enforcement staff to quickly respond to complaints.

#### City Council Direction

The City Council previously continued the public hearing and provided staff with four points of direction, which includes:

1. Report back at a future public hearing with a draft text amendment ordinance to establish a 24-month pilot program to define, allow and regulate short-term vacation rentals;

*Staff Comment: The ordinance language has been amended to include a sunset clause. It will automatically expire 24 months after the effective date, unless the City Council takes action to*



*extend the time or make the regulations permanent.*

2. Amend the proposed regulations to stipulate that more than three violations of any of the City's quality of life ordinances (not just violations of the subject ordinance) within a 12-month period shall result in revocation of business license;

*Staff Comment: The ordinance has been amended to require revocation of the business license and administrative permit upon three affirmed violations of this ordinance or any of the City's quality of life ordinances within a 12-month period. This includes text in the new short-term vacation rental section of the code to require revocation and new text in the administrative permit section of the code to give the City the ability to revoke the permit. Notwithstanding this, even a single violation will subject the property owner to enforcement action and administrative citation, as allowed by the Municipal Code, to ensure the City can obtain compliance with any violation.*

3. Provide options for Council consideration on the following as-yet-undecided elements that require further Council discussion, which include:

- a. Management and Operations Plan provisions,

*Staff Comment: It is prudent to include this requirement; as such, staff has included language in the proposed zoning text that requires approval of a management and operation plan. This plan will specify all reasonable business practices the owner will take to ensure the short-term vacation rental will not create an impact to the neighbors. This includes maintaining the property, preventing commercial party businesses from using the site, providing a copy of the City's "Good Neighbor" brochure to all renters, maintaining the records of renters for three years, providing a contact person, specifying the number of parking spaces, and setting a maximum number of occupants.*

- b. Posting of an identification plaque at all times and ensure visibility from public right-of-way,

*Staff Comment: The intent of the plaque is to allow the public an avenue to file a complaint. The standard size of the plaque will be six square feet; however, the Director of Community Development may alter the size to ensure it is visible and legible from the public right-of-way. The plaque will contain the property address, the permit number, and the Police dispatch number so a complaint can be filed. The Police Department will then determine if an immediate response is needed, if they should call the contact person to respond, or if the matter should be referred to Code Enforcement.*

- c. Provide a 24-hour/day contact person to respond to calls within 45 minutes,

*Staff Comment: Staff believes this is an important requirement to include in the management and operations plan. This will ensure a timely response to an issue, should the City receive a valid complaint about the operations.*

- d. Require a private kitchen area in each unit,

*Staff Comment: In order to prevent a dwelling unit from being converted to multiple short-term vacation rentals and to encourage the use of the units as family accommodations, staff recommends that each unit have a kitchen, a bathroom, and a designated sleeping area.*

- e. Establishment a parking requirement, and

*Staff Comment: To minimize impacts to the surrounding properties, ensuring the short-term vacation rental has onsite parking is a judicious measure. As part of the proposed ordinance, staff recommends creating a parking standard at one parking space per bedroom, with a maximum of two parking spaces being required. As with any new use in the City, if an owner wishes to establish a new short-term vacation rental, they will need to have sufficient onsite parking to accommodate all uses.*

- f. Should pilot program be allowed citywide or limited to specific area;

*Staff Comment: As currently proposed, short-term vacation, rentals would be allowed in any non-conforming dwelling unit within a commercial zone (C-2, C-3, SPA 7, SPA8, and SPA 11) in the City. One matter the City Council should discuss is whether to limit to a specific area of the City, such as commercial properties in the coastal zone, or to allow citywide.*

4. Provide written public notice to properties located within a 200-foot radius of each nonconforming residential.

*Staff Comment: Staff mailed a public notice to all property owners within 200 feet of all the commercial zoned properties that have non-conforming residential dwelling unit and published the notice in the Easy Reader. As an added measure, notice of the Text Amendment was sent out on the City's social media accounts and posted to the City's website.*

### Fee Schedule

Staff has developed a fee schedule, which is designed to cover the cost of staff time estimated to be needed to process the applications: \$1,735 for an initial application and \$1,501 for a renewal application. This will cover time needed for staff to conduct various inspections of the premises, review and recommend modifications to the Manager & Operations Plan, review the identification plaque, research, review and consideration of any violations, etc.

### Environmental Determination

The project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which states that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Inasmuch as this is a pilot program that allows existing structures to change their use (from long term residential to more transient occupancy), and has strict operational requirements, it can be seen with certainty that there is no possibility that the activity in question will have a significant effect on the environment.

**General Plan Consistency:**

PLAN Hermosa, the City's General Plan, was adopted by the City Council in August 2017. The Text Amendment supports several PLAN Hermosa goals and policies that are listed below:

**Land Use Goal 8. A range of coastal-dependent and visitor-serving uses available to serve a variety of income ranges and amenity desires.** Provision of adequate accommodations and recreational uses can help to enhance both the visitor and resident experience when frequenting the beach and nearby coastal destinations.

**Land Use Policy 8.2 Coastal-related uses.** Accommodate coastal-related uses within reasonable proximity to the coastal-dependent uses they support.

Approval of the pilot program will allow a new source of accommodations that will not only serve the coastal dependent uses, but will provide visitor-serving uses throughout the City.

**Fiscal Impact:**

The application fees are designed to cover the cost of staff time needed to process the applications. The City would also receive Business License taxes and Transient Occupancy Tax (TOT) from any short-term vacation rental approved to operate; however, no estimate of the potential revenue has been undertaken at this point.

**Attachments:**

1. Draft Ordinance
2. Amendment to Master Fee Resolution
3. City Council Minute Excerpts, dated March 28, 2017
4. Letter from Coastal Commission, dated December 6, 2016
5. Map of known commercially zoned non-conforming residential properties
6. Written Communication

**Respectfully Submitted by:** David Blumenthal, AICP, Senior Planner

**Concur:** Ken Robertson, Community Development Director

**Noted for Fiscal Impact:** Charlotte Newkirk, Accounting Manager

**Legal Review:** Lauren Langer, Assistant City Attorney

**Approved:** Suja Lowenthal, City Manager