



Council Agenda Report

To: Mayor Rosenthal and the Honorable Members of the City Council

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Approved by: Jim Thorsen, City Manager 

Date prepared: October 28, 2015

Meeting date: November 9, 2015

Subject: Short-term Residential Rentals

RECOMMENDED ACTION: Provide direction to staff on any proposed changes to existing codes or to the processing of code enforcement complaints related to short-term residential rentals.

FISCAL IMPACT: In Fiscal Year 2014-2015, the City collected \$1.2 million in Transient Occupancy Tax (TOT) from hotels and motels and \$700,000 in TOT from the short-term residential rentals. Changes to the City's existing TOT regulations could impact future revenue.

DISCUSSION: The City has received complaints from residents in the Broad Beach area regarding a particular single family home currently being used for short-term rental. The complaints allege that the neighborhood has seen increases in noise, parking, and trash since the home has been rented out on a short-term basis. In response to these complaints, the Council asked staff to research possible options for enforcement or limitations on short-term rental activities.

Malibu Municipal Code (MMC) Chapter 3.24 requires owners and operators of short-term rental properties to register their property with the City and remit TOT on a quarterly basis. It also authorizes the City to collect TOT when a hotel, motel or residential home is occupied for thirty consecutive calendar days or less. The tax rate is 12% of the amount charged. Registration is a one-time \$25 fee and taxes are collected on a quarterly basis. If an owner or operator fails to remit TOT as required the City may impose interest and penalties on the amount owed.

In 2009, the City began enforcing the collection of TOT on the short-term rental of private homes. Prior to 2009, the City did not enforce MMC Chapter 3.24 and collect TOT on the short-term rental of private homes even though it was authorized to do so. A short-term rental is generally described in MMC Chapter 3.24 as the rental of a structure

for 30 consecutive calendar days or less. This includes any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, rental unit, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof, and shall further include any trailer court, camp, park or lot where trailer spaces, or combinations of such spaces and trailers, including mobilehomes, are occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes.

The increase in internet advertising of vacation rentals has led to an increase of short-term residential rentals in Malibu and throughout California. The issue of short-term residential rentals and the subsequent effect on housing, neighborhoods and the economy is a significant issue facing many cities. Enforcement tactics employed by other cities to address the increase of short-term residential rentals can range from bans of all short-term residential rentals to limits on rentals, such as restricting the number of days per year a property can be rented, or instead, strictly enforcing noise and nuisance ordinances already on the books to deal with problem rental properties.

For example, the City of Big Bear Lake is known as a vacation destination with many short-term residential rentals. It has adopted an ordinance (Attachment 1) that requires owners to obtain a business license and have the rental property inspected on an annual basis. Some of the requirements include providing fire safety devices such as smoke alarms and fire extinguishers; requiring the property owner to be personally available during rental times; limiting the occupancy of a rental to one person to two hundred square feet with a maximum of sixteen occupants; and providing parking on the rental property for all visitors. An 8% TOT rate is charged by the City of Big Bear Lake.

The City of San Francisco allows short-term rentals when a property owner or permanent resident occupies the property for a minimum of 270 days a year, and caps the number of rentals at 90 days a year (single family homes are excluded). Registration and annual reporting is required in addition to the remittance of a 14% TOT.

The City of Napa requires property owners of short-term rentals to notice neighbors on an annual basis; limits the occupancy of a rental to two people per bedroom overnight with a maximum of ten occupants; limits daytime occupancy to twice the overnight number; and conducts annual inspections on short-term rental properties. A 12% TOT rate is charged by the City of Napa.

The City of Petaluma has established separate rules for non-hosted short-term rentals and rentals where a host is present. All owners must obtain a business license and offsite managers must respond to complaints within one hour. Occupancy is limited to two people per bedroom plus two additional guests and non-hosted rentals can only be

rented for 90 days a year. Parking on streets is allowed per the city code. A 10% TOT rate is charged by the City of Petaluma.

All of these cities, however, have trouble enforcing the restrictions they have in place. Each sports large numbers of properties available for rent on platforms such as vrbo.com that are in direct violation of the ordinances. Due to the nature of short-term rentals, it is difficult (1) to ascertain that a property is being rented (rather than used for free by friends or family members), or (2) to prove a case when the renters are often visitors who cannot be easily contacted or subpoenaed, and are not interested in assisting the city (unless they had a bad experience).¹

In April 2015, Airbnb began collecting and remitting TOT on properties in the City that were rented through their website. Malibu is one of just a few cities in California that Airbnb collects TOT for, and it remains the only small city where the company does this. One of the main reasons Airbnb collects TOT in Malibu is because of the simplicity of MMC Chapter 3.24. If the City makes changes to MMC Chapter 3.24, Airbnb may cease collecting TOT in the City.

It appears that there are several hundred properties advertised online for short-term rental in Malibu. The majority of these properties do not generate complaints, and the complaints that have been received are generally resolved when the City contacts the host. The particular Broad Beach property brought to the Council's attention, however, continues to generate complaints. Staff has initiated additional enforcement action against this property, but if the Council would prefer to expand these efforts or pursue broader restriction of short-term rentals staff has identified the following options for discussion:

- Increase code enforcement efforts to ensure that City codes are not being violated by short-term rental properties. Currently short-term rental properties are subject to the same noise, parking and nuisance ordinances as owners and renters who stay more than 30 days. However, as many complaints relate to actions that occur after hours it can be difficult for staff to investigate. Most complaints relate to actions that violate the City's municipal code, but are hard to prove without documentation. Options to increase enforcement include:
 - Hiring additional staff to monitor neighborhoods to ensure compliance with City regulations regarding noise, parking and trash.
 - Authorizing after hours patrols or on-call staff.

¹ It should be noted that if SB 593 (the Thriving Communities and Sharing Economy Act) is passed during the 2016 legislative session, it would be much easier to enforce restrictions on short-term rentals. The bill, in its current form, would require hosting platforms such as Homeaway.com and Airbnb.com to report the addresses, dates of stay, and amounts paid for short-term rentals booked on their platforms. This would provide the information needed to enforce most ordinances that limit short-term rentals. Until/unless SB 593, or a similar bill, passes in such a form enforcement of these ordinances will continue to prove difficult or impossible.

- Identifying problem properties and coordinating efforts with the Los Angeles County Sheriff's Department, the agency who responds to afterhours noise and nuisance complaints.
- Revise the Special Events Permit Ordinance to further limit parties held at properties rented on a short-term basis. Short-term rentals are already subject to greater restrictions related to parties and weddings (these events always require a special events permit from the city whereas a property owner can host smaller parties that do not require a permit). If the Council believes parties and weddings at short-term rental properties should be further restricted, this ordinance can be revised to further restrict such events and increase the penalties for violations.
- Enact broad restrictions on short-term rentals. These restrictions can take many forms, but as mentioned above, they can be difficult to enforce. Some options include:
 - Allow home-sharing (where the host has to be present on the property during the rental period), but ban home-rental (where the host is not present). Santa Monica has adopted this type of ordinance.
 - Limit the number of days a property can be rented in a year. San Francisco has a similar ordinance, but it does not apply to single family homes.
 - Require the host to live in the property for a certain number of days a year. San Francisco requires the host to live on the property for 270 days a year.
 - Require licensing/permitting where the number of properties that can be rented on a short-term basis is capped. (The City already requires registration, but it does not limit the number of properties that can be rented).
 - Establish density restrictions in certain residential areas to prevent over-concentration of short-term rental properties. Restrictions might include allowing only a specific number of homes on each street to operate as short-term rentals.
 - Establish additional zones that allow short-term residential rentals and zones that do not allow short-term residential rentals.
 - Require short-term rentals to meet certain standards, such as:
 - Having the property inspected annually by the City.
 - Providing parking for all guests onsite.
 - Providing handicapped access on the property and in the home.
 - Being compliant with all fire, safety and occupancy codes.
 - These conditions could be combined in any number of ways.
- Ban all short-term residential rentals in Malibu.

An alternate option could include having established Homeowners Associations (HOA) impose their own short-term rental requirements for their respective neighborhoods. However, in order to do so, the HOAs must be an existing legally recognized HOA with recorded Bylaws and Covenants Codes and Restrictions.

ATTACHMENTS: City of Big Bear Lake Short-Term Rental Information

City of Big Bear Lake Municipal Code Section 17.03.310

17.03.310 - Transient private home rentals.

- A. This section is intended to provide a procedure to allow the rental of private homes to visitors on a short-term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic, noise, and density. Additionally, this section is intended to ensure that the number of occupants within such rental units does not exceed the design capacity of the structure or cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect the visitor from unsafe or unsanitary conditions.
- B. For purposes of this section, the following terms shall be defined as follows:
1. A transient private home rental shall mean a dwelling unit (including either a single-family detached or multiple family attached unit) rented for the purpose of overnight lodging for a period of not less than one night and not more than thirty (30) days.
 2. Managing agency or agent shall mean a person, firm, or agency representing the owner of the transient private home rental, or a person, firm, or agency owning or operating more than one transient private home rental.
- C. Registration and Licensing Requirements.
1. Any managing agency, agent, owner or property manager who rents one or more transient home rentals shall be required to obtain a city business license.
 2. Rental of transient private home rentals shall be subject to collection of transient occupancy tax as required by the city.
 3. The managing agency, agent, owner or property manager of each unit to be used as a transient private home rental shall register each such unit with the city prior to commencing the use. A fee established by resolution of the city council may be collected to cover the reasonable cost of processing the registration.
- D. Inspection Requirements. Each dwelling unit used as a transient private home rental unit within the city is subject to the following inspection requirements.
1. Any new transient private home rental unit shall be inspected, prior to commencement of the use, by a qualified inspector authorized and approved by the city to conduct such inspections. The actual cost of such inspection, plus any administrative charges, shall be paid by the owner pursuant to the city's adopted fee schedule.
 2. After the initial inspection of a transient private home rental, said rental unit shall be re-inspected not less than once within each year following the original registration date, for as long as the unit is used as a transient private home rental. Completion of the annual inspection will be verified at the time of business license renewal.
- E. Sign and Notification Requirements.
1. Each transient private home rental shall be equipped with no more than one identification sign, not to exceed two square feet in area. No other advertising signs promoting or identifying the unit shall be permitted anywhere in residential zone districts. The required identification sign shall be attached to the transient private home rental in a location, which is clearly visible from the street, and shall clearly display all of the following information in lettering of sufficient size to be easily legible:
 - a. The name of the managing agency, agent, property manager, or owner of the unit, and a telephone number at which that party may be reached on a twenty-four (24) hour basis;
 - b. The maximum number of occupants permitted to stay in the unit;
 - c. The maximum number of vehicles allowed to be parked on the property; and

- d. The telephone number of the city's code compliance division.
 2. Each transient private home rental unit shall have a clearly visible and legible notice posted within the unit in a clearly visible location, containing all of the following information:
 - a. The maximum number of occupants permitted to stay in the unit;
 - b. The maximum number of vehicles allowed to be parked on the lot;
 - c. Notification that trash and refuse shall not be left or stored on the property but may be deposited at the city's Clean Bear sites, along with the locations of these sites;
 - d. The twenty-four (24) hour telephone number of the managing agency, agent, property manager, or owner of the unit; and
 - e. Notification that failure to conform to the parking and occupancy requirements for the structure is a violation of the city's Municipal Code.
 3. Information on the permitted occupancy and parking capacity for each unit, and trash disposal requirements, shall be stated in the rental information and agreement provided to prospective renters, prior to their occupancy of the unit.
- F. Standards and Conditions of Operation.
1. The managing agency, owner, agent and property manager shall be responsible for compliance with all applicable codes regarding fire, building and safety, health and safety, and other relevant laws.
 2. The managing agency, owner, agent or property manager shall be personally available by telephone on a twenty-four (24) hour basis to respond to calls regarding the condition and/or operation of the unit. Failure to respond to calls in a timely and appropriate manner may result in revocation of the business license authorizing the use. For purposes of this section, responding in a timely and appropriate manner shall mean that a response to an initial call shall be made within two hours of the time the call was made, and within twenty-four (24) hours of the initial call, corrective action shall be commenced to address any violation of this section.
 3. The maximum occupancy of a transient private home rental shall be one person per two hundred (200) square feet of building area, excluding garages or other accessory buildings; provided, however, that in no case may the occupancy of a transient private home rental unit exceed sixteen (16) people.
 4. The following requirements for transient private home rentals will be evaluated upon inspection of each unit, and shall constitute minimum requirements. The unit must be brought into conformance with these requirements and any other applicable codes and ordinances in order for the use to be allowed.
 - a. Required sign and notice must be posted, and address of each unit must be legible from the street.
 - b. Smoke detectors shall be installed within each sleeping room and at a point centrally located in the corridor or area giving access to each separate sleeping room. Battery-operated smoke detectors are acceptable provided that they are maintained in good working order at all times, except as required by other applicable codes.
 - c. The transient private home rental shall be equipped with a minimum of one 2A:10B:C type extinguisher with seventy-five (75) feet of travel distance to all portions of the structure; at least one such extinguisher is required per floor. Fire extinguishers(s) shall be mounted in visible locations with the tops of the fire extinguishers mounted between three and five feet above the floor, and shall be accessible to occupants at all times. California State Fire Marshal annual certification tags must be provided and be current on all extinguishers.
 - d. No tree limbs are allowed within ten (10) feet of chimneystack openings.

- e. Spark arresters of a minimum opening size of three-eighths inch and maximum opening size of one-half inch shall be required on all fireplace flue openings.
- f. If there is a fireplace or solid fuel barbeque, the transient private home rental shall be equipped with a minimum five gallon metal container with a tight fitting lid for ash disposal, which is clearly labeled. Instructions on storage or placement of ashes shall be stated in the rental agreement and on the notice posted within each unit (i.e., do not place can on or near any furniture or other combustible material; ashes must be wet down thoroughly with water; ash can must be stored outside with a minimum of three feet clearance from building, porch, trees, or combustible vegetation; lid must remain on ash can when used for storage).
- g. Furniture and other combustible material shall be kept a minimum of fifty-four (54) inches from fireplace openings and a minimum of thirty (30) inches from the front of wall or floor heaters, or as required by the manufacturer.
- h. Flammable liquid storage is prohibited except in garages where up to five gallons of fuel may be stored in approved containers for maintenance purposes. This requirement excludes fuel tanks in vehicles.
- i. The roof and grounds of the transient private home rental shall be kept clear of accumulations of pine needles, weeds, or other combustible materials.
- j. Any locking mechanism on exterior doors must be operable from inside the unit without the use of a key or special knowledge or effort. If the dwelling unit is greater than three thousand (3,000) square feet in area, two exit doors shall be required, each of which shall conform to this requirement.
- k. Transient private home rentals shall be maintained in a clean and sanitary condition and free from hazards.
- l. There shall be no exposed wiring or overloaded electrical circuits.
- m. There shall be no permanent use of extension cords for appliances, heaters, lamps or other fixtures.
- n. There shall be no leaking fixtures, or clogged or leaking wastewater lines.
- o. Faucets and fixtures shall be maintained in working condition.
- p. Showers, sinks and bathing facilities shall be clean and shall drain properly.
- q. There shall be no evidence of pest infestations.
- r. Bedroom windows shall be operable to allow for emergency egress.
- s. There shall be at least one screened window per room, to allow for adequate interior ventilation.
- t. There shall be no accumulation or storage of trash and/or debris on the site or within the unit; trash shall be removed from the premises after each occupancy.
- u. All steps, stairways, decks, and railings shall be stable and structurally sound.
- v. Fireplaces shall be equipped with screens that are adequate to prevent sparks or rolling logs from escaping the fireplace opening.
- w. All appliances, including but not limited to kitchen appliances, furnaces and water heaters, shall be operational.
- x. Any hot tubs, pools, and spas shall be fenced or equipped with an approved cover with approved locking mechanisms as required by state law, and shall be maintained in a safe and sanitary condition.

- y. Any lofts or attic conversions shall be provided with acceptable exiting and head clearance; stairs providing access to these areas shall be safe and structurally sound, and no ladders shall be allowed.
 - z. Emergency exit routes shall be illuminated with a battery-operated emergency light, so as to provide for safe exiting in the event of electrical failure.
 - aa. Exits shall remain clear of storage, debris, or impedance at all times.
 - bb. The main entrance to the unit shall be illuminated when the unit is occupied, provided, however, that any exterior lighting shall be designed and located so as not to produce excessive light or glare which may create a nuisance to adjacent property owners.
 - cc. Parking shall be provided on-site to meet the occupancy of each transient private home rental at a ratio of not less than one parking space per bedroom. Parking spaces may include garage, carport and driveway spaces, and may allow for tandem parking. For units which do not have paved driveways or covered parking spaces, the portion of the lot to be used for parking should be clearly delineated by signs or other means to prevent parking on-street or within yard areas. No overnight on-street parking shall be permitted.
 - dd. Snow removal from driveways and off-street parking areas is required to be performed prior to each occupancy period.
- G. Non-compliance by an owner, managing agency, property owner, or agent of the requirements for registration, inspection and operation of transient private home rental units may result in the revocation of the business license authorizing the use, and no new business license may be issued to the same licensee for a period of twelve (12) months following such revocation.

(Ord. 2003-333 § 4 (Exh. A (part), 2003))

(Ord. No. 2011-417, § 4(Exh. A), 12-12-2011)