



City of Culver City

Staff Report

File #: 19-885, **Version:** 1

Item #: A-1.

CC - (1) Discussion of Policy Recommendations from the City Council Short Term Rentals Subcommittee Related to Short Term Residential Rentals; and (2) Direction to the City Manager on the Development of a Short Term Residential Rentals Ordinance

Meeting Date: February 12, 2019

Contact Person/Dept: Jesse Mays/Assistant to the City Manager

Phone Number: (310) 253-6000

Fiscal Impact: Yes No

General Fund: Yes No

Public Hearing: **Action Item:** **Attachments:**

Commission Action Required: Yes No **Date:**

Public Notification: (E-Mail) Meetings and Agendas (02/06/19) - City Council (02/06/19); Short-Term Residential Rentals (01/28/19; 02/04/19)

Department Approval: John Nachbar, City Manager (02/08/19)

RECOMMENDATION

Staff recommends the City Council (1) receive and discuss policy recommendations from the City Council Short Term Rentals Subcommittee related to short term residential rentals; and (2) provide direction to the City Manager on whether to use the Subcommittee's policy recommendations or alternative policy recommendations to develop a short term residential rentals ordinance.

BACKGROUND

Currently short term rentals are prohibited in the residential zones within the City. Title 17, Zoning (Zoning Code), of the Culver City Municipal Code (CCMC) classifies rentals of less than 30 consecutive days as a hotel/motel use and they are not listed as a permitted use in residential zones. The Zoning Code is a permissive Code, in that if a land-use is not specifically identified as permitted, then it is considered to be prohibited.

Despite this prohibition, short term rentals have arisen in Culver City due in part to promotion on short term rental websites, sometimes referred to as hosting platforms, such as Airbnb and Home

Away.

Short Term Rentals Task Force

On April 11, 2017, the City Council created the Short Term Rentals Task Force (“Task Force”) in order to gather community input and formulate policy recommendations related to the issue of short term rentals. Council Member Göran Eriksson and former Council Member Jim Clarke, as the City Council Short Term Rentals Subcommittee (Subcommittee), were also appointed by the City Council to the Task Force.

In addition to the Subcommittee, the Task Force included representatives from the Planning Commission, Finance Advisory Committee and the Landlord Tenant Mediation Board, and was supported by City staff from the City Manager’s and City Attorney’s Offices; the Planning, Housing, Enforcement Services, and Building Safety Divisions of the Community Development Department; and the Finance, Police and Fire Departments.

The Task Force first met on June 19, 2017 to listen to comments from members of the public, hear an overview of short term rental policies and decision points, and review ordinance examples from other cities. At the second Task Force meeting, on August 30, 2017, the Task Force discussed a draft short term rentals regulatory ordinance, which contained various policy decision points, and heard from members of the public.

City Council Subcommittee (2017 - 2018)

The City Council Subcommittee met with City staff on October 30, 2017 and again on March 27, 2018, in order to further refine policy recommendations, taking into consideration the Task Force meetings, including discussion and comments from the other Task Force Members, as well as community input. The Council Subcommittee presented its policy recommendations to the City Council on April 23, 2018. The City Council did not take action at that meeting, but discussed the desire to obtain additional community input on the issue before providing further policy direction, while moving forward in the near term with voluntary collection agreements for short term rental hosting platforms.

Voluntary Collection Agreement with Airbnb

On June 11, 2018, the City Council directed staff to seek voluntary collection agreements (VCAs) with Airbnb and other short term rental hosting platforms. A VCA is a legally binding agreement between a hosting platform and the City for the platform to assume the tax collection and remittance obligations of the platform’s hosts (such as Culver City residents renting out a room on Airbnb) for booking transactions completed on the platform. The purpose is to simplify the process of collecting transient occupancy taxes (TOT) for short term rental bookings. The City Council approved a VCA agreement with Airbnb on September 24, 2018. Airbnb began collecting TOT on the City’s behalf on November 1, 2018.

September 20, 2018 Community Meeting

The City hosted a Short Term Rentals Community Meeting in the Veterans Memorial Building on the evening of Thursday, September 20, 2018. The meeting was widely advertised through social media,

a press release that generated an article in the Culver City News, email blasts, and a “save-the-date” email that went out on August 3, 2018. Staff also made specific, individual outreach to representatives of local hotels and motels to attend the meeting. 64 people attended the Community Meeting. Attendees were mainly Culver City residents, and nearly half were short term rental hosts. Staff made a presentation about short term rentals and policies in other cities. Then, meeting participants engaged in discussion with their neighbors about specific topics related to short term rentals and provided feedback for the City’s consideration, including preference setting. A summary of the input gathered at the Community Meeting is discussed below, and attached (Attachment 1).

City Council Subcommittee (2018 - 2019)

On May 29, 2018, the City Council appointed Council Members Alex Fisch and Daniel Lee to the Short Term Rentals Subcommittee. Both members of the Subcommittee gave input into the Community Meeting design, and both attended the September 20, 2018 Community Meeting. The Subcommittee met on October 29, 2018 in order to discuss the public input from the Community Meeting, and to formulate policy recommendations. Staff and the Subcommittee worked to further refine the policy recommendations over the course of the next several months. The final Subcommittee recommendations are attached (Attachment 2).

DISCUSSION

The Subcommittee’s recommendations reflect the public input received to date and the City Council’s strategic priorities, including improving housing and ensuring the City’s long-term financial stability through new sources of revenue. All components of the policy proposal are included as an attachment. A detailed analysis of the key policy decisions is included below.

Permitting Short Term Rentals in Culver City

Community Meeting participants cited potential negatives associated with short term rentals as traffic, noise, strangers, parking, safety, smoking, unresponsive hosts, and changing the character of R1 neighborhoods. Participants felt that hosts had numerous responsibilities to their guests, neighbors, the public, and the City, including to maintain quality of life, respect, communication, paying taxes, and providing for safety and security. The Subcommittee’s proposal to allow and issue permits to short term rentals empowers the City to begin to regulate short term rentals to prevent nuisance behaviors and ensure hosts demonstrate appropriate responsibility. Requiring a permit gives the City something to take away should a short term rental host prove to be a neighborhood nuisance. With his or her permit revoked, a nuisance host would no longer be able to host. At the same time, those short term rentals that are not causing a nuisance can continue to operate.

Positives of short term rentals cited by Community Meeting participants include increased tourism, a good experience for the host, money into the community, and taxes. By allowing and permitting short term rentals, the City can collect TOT and visitors can contribute to the local economy, enhancing the City’s financial stability. A total ban on short term rentals might be difficult to enforce. For example, Manhattan Beach has had difficulty enforcing a total ban on short term rentals and is reconsidering its policy.

Primary Residence Requirement

The Subcommittee proposes Culver City allow short term rentals with a City permit, only in a host's primary residence. There are various definitions of primary residence. For example, the City of Los Angeles defines the primary residence as where the host lives at least six months out of the year. The Subcommittee has recommended using the Internal Revenue Service (IRS) definition of "principal residence". The IRS definition does not rely on a specific number of days or months spent at a residence, but more broadly considers various facts and circumstances to determine which property is a person's main home (see attached IRS definition - Attachment 3). A duplex is defined in the CCMC as "attached residential structures under single ownership containing two dwellings". For apartments, duplexes, or triplexes, the regulations would mean that the owner could only host short term rentals in his or her own primary residence unit. If the owner lived off-site, none of the units could be used for short-term rentals.

On the spectrum of regulation, from most restrictive to most permissive, non-hosts and hotels prefer regulations that are more restrictive (such as a ban on short term rentals or only allowing in a host's primary residence), and hosts prefer regulations that are more permissive (such as allowing unlimited rental of both primary and secondary residences). The Subcommittee took these very diverse preferences into account with its proposal. The proposed policy recommendations are more restrictive-allowing short term rentals only in a host's own primary residence-while not entirely banning or restricting the number of nights rented per year. Most hosts who have contacted the City about this issue are Culver City residents using their primary residences as short term rentals, as opposed to absentee investor hosts. The Subcommittee's proposal to allow short term rentals only in primary residences allows resident hosts to continue to pursue an activity that they not only enjoy, but in some cases provides the income necessary for them to continue to afford the high cost of living in Culver City. At the same time, the proposed policy recommendations prevent the rise of investor-owned, "defacto hotel" properties that diminish Culver City's long-term housing stock.

Community Meeting participants believed short term rentals could impact affordable housing both positively, by providing income that allows hosts to live in an expensive housing market, and negatively, by replacing long term housing units with short term housing units. The Subcommittee's policy recommendation to allow short term rentals only in a host's primary residence attempts to limit the loss of long term housing units (including relatively more affordable apartment, duplex, and triplex units) to short term rentals, while allowing hosts to continue to generate income from hosting that can help bridge the gap to make Culver City housing more affordable.

Community Meeting participants suggested additional ways to prevent negatives, including "hands-on" hosting, only allowing hosted rentals, no remote entities or middle managers, and hosts enforcing rules. The Subcommittee's policy proposal reflects the public desire for more "hands-on" hosting by requiring hosting to be done in a primary residence. In general, people will provide greater oversight to guests within their own home, rather than a secondary or rental property.

The cities of Pasadena, Berkeley, and most recently Los Angeles allow short term rentals in primary residences only.

Hosted Versus Unhosted Rentals / Contact Requirement

Hosted rentals are rentals where the host remains on-site overnight with the guests. Unhosted rentals are where the host is not on-site overnight, sometimes called "vacation rentals". The Subcommittee's proposal is to allow both hosted and unhosted rentals. While the public expressed a

desire for more “hands-on” hosting, it is anticipated that the primary residency requirement will in most cases mean that the host is onsite overnight, since that is the location where they spend the majority of their time. Hosts expressed a desire to be able to rent out their homes if they were out of town, such as for a weekend or an extended vacation. If the property is not creating a nuisance-which the city can regulate through other means-the Subcommittee did not see a reason to prevent this activity. Other cities have found it difficult and expensive to enforce the hosted versus unhosted requirement. In order to prove that a host was not onsite all night, one city has two code compliance officers stay overnight anonymously in a listing, so that one can remain awake at all times to monitor for the presence of the host. Furthermore, the Subcommittee is proposing requiring a 24/7 contact available to respond to complaints from the City within one hour. It is thought that in most cases this will be the host, but could be a relative, neighbor, or paid manager if the host is out of town. The intent of most cities’ hosted-only requirements is for someone to be available to respond to complaints on short notice. The 24/7 contact requirement achieves that goal. Out of concerns for privacy, the 24/7 host contact information would be made available only to the City. Hosts would be encouraged but not required to distribute the information to neighbors. Neighbors without the contact information would contact the City to complain, and the City would then contact the 24/7 contact to resolve the problem.

Limitation on the Number of Days Rented Per Year

The Subcommittee has not proposed to limit the number of days per year that each premise can be short term rented. Some cities have imposed limits, typically only for unhosted rentals. Both Pasadena and Berkeley allow unlimited hosted rentals, but only 90 days a year of unhosted rentals. Sacramento allows unlimited hosted or unhosted rentals in a host’s primary residence, but only up to 90 days a year in secondary residences. Sacramento reported difficulty enforcing the 90 day rule. Los Angeles allows only 120 days per year, hosted or unhosted, but also has a process whereby hosts can exceed that number of days. The process includes sign-off from neighbors, no nuisance citations, and other requirements. Los Angeles is intending to rely on the hosting platforms themselves to enforce the 120 day limit by fining the platform for booking more than 120 days a year at any rental.

It is anticipated that due to the primary residency requirement, most hosts will be onsite the majority of the nights they are hosting. It remains unclear whether setting a maximum number of unhosted days, such as 90, actually prevents any negative impacts to the neighborhood that cannot already be solved by revoking permits from nuisance hosts.

Among participants at the Community Meeting, hosts tended to prefer no limitation on the number of nights rented per year, while hotels and non-hosts tend to prefer either a complete ban or some limitation on the number of total nights rented per year. However, a significant number of non-hosts also expressed acceptance of no limitation on the number of nights as long as the rental is a host’s primary residence.

Accessory Dwelling Units

The Subcommittee believes that the Council should consider various options related to allowing short term rental of accessory dwelling units (ADUs). ADUs are a secondary dwelling unit which provides complete, independent living facilities for one or more persons, and that contains permanent provisions for sleeping, eating, cooking, and sanitation within the same parcel as the single family

dwelling. ADUs can be detached, attached, or interior (such as a guest bedroom or garage converted into an independent living unit). ADUs are currently prohibited by the ADU ordinance from being used for short term rentals. However, it is clear that many Culver City short term rental hosts are using ADUs for short term rentals. In some cases, a host will live in the ADU while the main residence is short term rented. In general, the Subcommittee believes that ADUs should be used for long term housing, not short term rental. State law changes in 2017 emphasized the importance of using ADUs for more long term housing. The Subcommittee has proposed several options (see Attachment 2):

- Option A: Would allow legal ADUs permitted before the State law change to continue to use their ADUs for short term rental, while prohibiting future ADUs from being used for short term rental
- Option B: Would allow short term rental of all legal ADUs, combined with an amnesty program for ADUs completed before 2005. While this would allow future ADUs to be used for short term rentals, this could be paired with a City program to incentivize ADUs to be used for long term and/or affordable housing by streamlining permitting in return for 5-10 year commitments to use the ADU as long term and/or affordable housing.
- Option C: Would prohibit ADUs from being used for short term rentals. This would prevent the reduction in the long term housing stock.

Other Proposed Policies

Neighbor Notification and/or Sign-off: Although neither of these is proposed, the City would emphasize that the best practice is for hosts to notify neighbors that they are short term renting. The Subcommittee discussed the possibility of an online listing of permitted short term rentals and their contact information, but is not recommending this out of concerns for privacy. Requiring neighborhood sign-off in order to host might result in unfairness or pit neighbor against neighbor.

Zoning Restrictions/Differences: Having different standards for different zones (R1, R2) raises equity questions, and so the Subcommittee is recommending one standard that is consistent across all residential zones.

FISCAL ANALYSIS

There is no fiscal impact associated with this item.

ATTACHMENTS

1. 2019-02-12 - ATT September 20th Community Meeting Report
2. 2019-02-12 - ATT Short Term Rentals Policy Recommendations
3. 2019-02-12 - ATT IRS Definition of Principal Residence

MOTION

That the City Council:

1. Receive and discuss the policy recommendations from the City Council Short Term Rentals Subcommittee related to short term residential rentals; and
2. Provide direction to the City Manager to use the Subcommittee's policy recommendations to develop a short term residential rentals ordinance for City Council's approval; or
3. Provide direction to staff to use alternative policy recommendations to develop a short term residential rentals ordinance for City Council's approval.