



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Ward and Members of the City Council

FROM: Robert V. Wadden Jr., City Attorney

DATE: September 19, 2006

SUBJECT: Introduction of Ordinance No. 2093 Regulating The Term of Residential Rentals and of Ordinance No. 2092 Prohibiting Paid Admission or Commercial Parties

RECOMMENDATION:

Staff recommends that the City Council:

(a). introduce and waive further reading of Ordinance No. 2093 which regulates a minimum term for residential rentals in the City;

(b). introduce and waive further reading of Ordinance No. 2092 prohibiting paid admission or commercial parties.

FISCAL IMPLICATION:

There should be no fiscal impact from adoption of this ordinance.

BACKGROUND:

On July 18 the City Council discussed the concept of imposing a minimum rental period on residential rentals. The Council directed staff to prepare an ordinance which would impose a seven day limit on such rentals. Also at the City Council meeting of July 18, 2006 the Council considered the issue of regulating paid admission parties along with regulating residential rentals. Council directed staff to prepare an ordinance which prohibited paid admission or commercial parties.

DISCUSSION:

(a). Ordinance No. 2093 Regarding Residential Rental Term Restriction.

A brief search of the internet reveals a thriving market in Manhattan Beach vacation rentals of single family residential properties which may be rented for a single night, a week or multiple weeks. Most of these properties are furnished with fully equipped kitchens and command substantial rents, often several thousand dollars per week. These activities are perfectly legal under the current municipal code. The issue presented to the Council is whether or not these activities (i.e., the renting of residential properties for parties and for vacation housing) are consistent with

the present use and character of the residential neighborhoods in which they occur and what, if any, regulatory power should be exercised to control or inhibit them.

Staff reviewed the codes of other cities to determine if any other city had attempted to limit the minimum term of residential rentals. Locally the cities of Hermosa Beach and Santa Barbara indicated that they interpreted their zoning codes to prohibit short term rentals using a restrictive interpretation of the definition of “residential” as a permitted use. However, the express language of the zoning codes relied upon does not support this interpretation and actual enforcement would be problematic. Carmel, Imperial Beach and Monterey specifically prohibit rentals less than 30 days. Carmel and Imperial Beach both have specific ordinances which ban such short term rentals while the City of Monterey attempts to rely on its zoning code. Mendocino County requires permits for short term rentals but limits the total short term rentals in the City based upon a ratio of one short term rental for every 13 residential units and thus restricts the total number of permits available to be issued.

The proposed ordinance mandates a minimum rental period of seven days/six nights. It applies only to residential properties and exempts boarding houses, motels and hotels. A system of administrative fines is provided for in addition to criminal misdemeanor penalties. In some cases the certificate of occupancy may be temporarily suspended.

Business License Tax/Transient Occupancy Tax

While we have not enforced or collected business license or transient occupancy tax from the property owners engaged in renting out their homes, the Municipal Code clearly allows and authorizes the City to levy and collect these taxes. Under current code, there is no charge for a Business License to conduct this type of activity, however the ten percent transient occupancy tax should be collected by the homeowner for any contiguous stays of 30 days or less.

After searching the Internet, there are many home rentals available in Manhattan Beach. A visit to two sites indicated at least 30 such properties ranging from a low of \$900 per week to \$5,500 per week. Based on these rates, we should collect \$90 to \$550 per week in transient occupancy tax. It is difficult to gauge and estimate occupancy rates for these properties, however it is fair to say that thousands of dollars in taxes should be collected for these rentals.

Independent of any changes to the Municipal Code being considered by Council, staff will begin the process of contacting the various rental agencies and homeowners to advise them of the need to collect the taxes for all continuous stays of 30 days or less, and to obtain the requisite license to operate as a business in Manhattan Beach.

(b). Ordinance No. 2093 Regarding Paid Admission/Commercial Party Prohibition

In some cities a practice has arisen in which a home owner or renter sponsors a paid admission party. Typically these parties are advertised by flyers distributed over a wide area. They often include live entertainment. Attendees are charged an admission price before being allowed into the party or charged a fee for the entertainment and refreshments. Since such parties are nonselective about who is allowed to attend and security is often lax or nonexistent they have the potential to be volatile. There is often no limit to the number of people admitted and a sponsor has an economic

incentive to allow as many attendees as possible. A number of cities, including Hermosa Beach, have expressly banned such parties. The Police Department has not experienced any pattern of such parties in Manhattan Beach.

The proposed ordinance is based on the Hermosa Beach ordinance and specifically prohibits all parties for which paid attendance is required or which are open to the public and advertised generally or for which a charge is made for refreshments. Parties for charitable purposes sponsored by tax exempt organizations and political fundraisers sponsored by campaign committees or political action committees are exempt from this prohibition. Violation of the ordinance is a misdemeanor.

Attachments: Ordinance No. 2093
Ordinance No. 2092

cc: Geoff Dolan, City Manager
Rod Uyeda, Chief of Police

ORDINANCE NO. 2093

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA ADDING A NEW CHAPTER 6.24 TO TITLE VI OF THE MANHATTAN BEACH MUNICIPAL CODE REGARDING REGULATION OF RESIDENTIAL RENTALS

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby makes the following findings:

- A. Presently the City does not regulate the duration of residential rentals in the City;
- B. A proliferation of short term party and vacation rentals of property classified as residential has been disruptive to the peace and quiet enjoyment of property owners and residents in residential neighborhoods;
- C. It is therefore in the best interest of the public health, safety and welfare to adopt a regulation limiting the ability of property owners to rent their residential property to a minimum number of days.

SECTION 2. The City Council of the City of Manhattan Beach hereby adds a new Chapter 6.24 to Title VI of the Manhattan Beach Municipal Code to read as follows:

“CHAPTER 6.24 RESIDENTIAL RENTAL REGULATION

6.24.010 Definitions

For the purposes of this chapter, certain words and phrases used herein are defined as follows:

- A. **Boarding-house** – a commercial venture requiring a City business license providing overnight accommodations charging weekly or monthly rates which include one or more meals daily.
- B. **Hotel** – a commercial venture which provides overnight accommodation charging daily rates and providing services to guests.
- C. **Lease** – any agreement which gives rise to a relationship of landlord tenant or, when used as a verb, the act of doing so.
- D. **Motel** – a roadside hotel with minimal or no guest services.
- E. **Rent** – when used as a verb shall mean any arrangement whether formal or informal to permit the use or occupancy by an owner of their property to another while retaining legal ownership whether or not for compensation.
- F. **Residential Property** – any single family home, apartment or other multi family residential unit, condominium, or other unit used for sleeping and domestic use located in an RS, RM, RH, RPD or RSC zoning district but shall not include any property which has been approved and operated as a hotel or boarding-house.

6.24.020 Minimum Rental Term

No residential property may be rented, leased or otherwise have possession or occupancy of the premises temporarily transferred in any way for a term less than seven (7) consecutive days including six (6) nights.

6.24.030 Exemptions

No property which has been approved as a hotel, motel, or boarding-house or has a legal nonconforming status for such use shall be subject to the restrictions of this Chapter.

6.24.040 Criminal Enforcement

Any violation of this Chapter shall be punishable as a misdemeanor. The City's election to enforce criminally shall not preclude it from seeking any other remedy which may be available.

6.24.050 Administrative Enforcement

Notwithstanding the availability of any other remedy under this Chapter or the City's election to use such remedy the city may, after notice and hearing, administratively suspend the certificate of occupancy for any property used in violation of this Chapter for up to ninety (90) days for the first violation within a consecutive twelve month period, one hundred and eighty days (180) for the second violation within a consecutive twelve month period and three hundred and sixty-five (365) days for the third violation within a consecutive twelve month period.

Upon determination by the Director of Community Development or his or her designee that a property has been used in violation of this Chapter, a notice shall be issued and sent by mail to the property owner's address listed in the assessor's records which shall specify the manner in which this chapter is violated and state the intent to suspend the certificate of occupancy for the property. The notice shall state that a hearing on this determination may be requested and that failure to request a hearing on the notice within ten (10) business days after the mailing date of the notice shall result in suspension of the certificate of occupancy for the property at any time after expiration of the ten (10) day period.

If a hearing is requested, it shall be provided within ten (10) business days of the request and shall be conducted by the City Manager or his or her designee. The appellant shall be given at least five (5) business days notice of the time and place of the hearing and shall be entitled to present evidence showing that the property has not been used in violation of this chapter. The hearing shall be conducted in a manner designed to ascertain the facts without an undue consumption of time or resources. Formal rules of evidence need not be followed, nor shall any party have the right to require that witnesses be sworn or subject to cross examination. The City Manager or his or her designee shall either affirm, vacate or modify the order to suspend the certificate of occupancy for the affected property. The suspension shall be stayed pending completion of the hearing and rendering of a decision.

6.24.060 Civil Enforcement

Notwithstanding the availability of any other remedy under this Chapter or the City's election to use such remedy the City may elect to seek enforcement of this Chapter in a civil action to abate or enjoin any violation of this Chapter. If the City shall prevail in any such action it shall be entitled to recover its attorney fees."

SECTION 3. If any sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 4. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other Ordinance of the City, to the extent that they are inconsistent with this Ordinance, and no further, are hereby repealed.

SECTION 5. This Ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 6. The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate, posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council

members voting for and against the Ordinance.

PASSED, APPROVED and ADOPTED this 3rd day of October, 2006.

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

ORDINANCE NO. 2092

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA ADDING A NEW SECTION 5.48.330 TO CHAPTER 5.48 OF TITLE V OF THE MANHATTAN BEACH MUNICIPAL CODE REGARDING PROHIBITION OF PARTIES FOR WHICH ADMISSION IS CHARGED

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby makes the following findings:

- A. Presently the City does not regulate holding parties for which admission is charged and advertising is used to solicit attendance;
- B. In the past such parties have been disruptive to the peace and quiet enjoyment of property owners and residents in residential neighborhoods;
- C. It is therefore in the best interest of the public health, safety and welfare to adopt a regulation prohibiting parties for which admission is charged and/or for which attendance has been solicited by advertisements or flyers.

SECTION 2. The City Council of the City of Manhattan Beach hereby adds a new Section 5.48.340 to Chapter 5.48 of Title V of the Manhattan Beach Municipal Code to read as follows:

“5.48.030 Prohibition of Parties For Which Admission is Charged Or Attendance Solicited

It shall be unlawful to conduct or hold in any residence any party, dance or other social gathering at which live or recorded music is provided, which is open to the general public and: (1) for which admission is charged, or (2) for which brochures, posters, or handbills are posted or distributed in any way or any other type of advertising is published or broadcast, or (3) for which a charge is made for refreshments. This section shall not apply to functions organized by an organization qualified as tax exempt under 26 USC section 501 or a political action committee (“PAC”) or campaign committee as defined in State or Federal law for a charitable, religious or political purpose. Violation of this section shall be punishable as a misdemeanor.”

SECTION 3. If any sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

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