

City Council Meeting: June 13, 2017
Agenda Item: 7.A

To: Mayor and City Council
From: David Martin, Director, Administration
Subject: Home-Sharing and Accessory Dwelling Units

Recommended Action

Introduction and First Reading of an Ordinance Amending Chapter 6.20 of the Santa Monica Municipal Code Relating to Accessory Dwelling Units and Vacation Rentals and a Clarification of the Definition of Vacation Rental.

Executive Summary

At its February 28, 2017 meeting, Council adopted changes, corrections, and clarifications to the Zoning Ordinance including changes related to Accessory Dwelling Units; however, necessary concurrent changes to the home-sharing ordinance were not made. During the first reading of the proposed ordinance, Council directed staff to include language restricting the use of an Accessory Dwelling Unit (ADU) for a residential rental of 30 days or less. According to the record, Council's direction was intended to prevent a newly constructed ADU from being used as a Vacation Rental, as defined by the Santa Monica Municipal Code (SMMC). The ordinance was adopted on Second Reading on February 28, 2017 and effective March 30, 2017. However, Santa Monica Municipal Code Section 6.20.020 provides that if any provision of Chapter 6.20 conflicts with any provision of the Zoning Ordinance, Chapter 6.20 shall prevail. As such, in order to fully effectuate Council's direction, it is necessary to also amend Chapter 6.20 SMMC.

Background

Section 9.21.020 of the Santa Monica Municipal Code (SMMC) established standards for Accessory Buildings and Structures. Accessory Structures are detached subordinate structures used only as incidental to the main structure on the same parcel. Examples of Accessory Buildings and Structures include but are not limited to greenhouses, storage sheds, workshops, garages, and other structures that are detached from the main building. Accessory Buildings and Structures may only be constructed on a parcel with a legally-permitted main building. An Accessory Building

may not contain a kitchen unless specifically permitted as an “Accessory Dwelling Unit” (ADU) pursuant to SMMC Section 9.31.300. Additionally an Accessory Building may only contain a sink and toilet, but may not have a shower or tub unless specifically permitted as an ADU. As such an Accessory Building or Structure is considered an extension of the main building, whereas if it is permitted as an Accessory Dwelling Unit it would provide complete independent living facilities and would therefore be considered a Single Dwelling Unit, consistent with California Government Code Section 65852.2.

On December 14, 2016, the Planning Commission adopted a Resolution recommending to the City Council that, among other changes, corrections, and clarifications to the Zoning Ordinance (ZO), staff should be directed to make changes related to Accessory Dwelling Units to be consistent with recent changes in State law. (See Attachment A)

During the first reading of the ordinance at the February 14, 2017 Council meeting (see Attachment B), Council directed staff to include language restricting the use of a newly constructed Accessory Dwelling Unit (ADU) for a residential rental of 30 days or less.

At its February 28, 2017 meeting, Council adopted changes, corrections, and clarifications to the ZO including the changes related to Accessory Dwelling Units; however necessary concurrent changes to SMMC Chapter 6.20 were not made. (See Attachment D)

Discussion

The City’s Home-Sharing Ordinance (Santa Monica Municipal Code Chapter 6.20) currently regulates home-sharing and vacation rental activities. Additionally, Chapter 6.20 supersedes the Zoning Ordinance as it relates to the regulation and enforcement of Home-Sharing Ordinance / vacation rental activities. Accordingly when there is a conflict, Chapter 6.20 would prevail.

Under existing law, a person is allowed to authorize exclusive transient uses in any accessory structure, including a guest house, when the entire property is designated for

a single family residential use and when the host remains in the main-house. Of the 195 active home-sharing business licenses, 37 business licenses are for “guest houses,” or 19%.

When the home-sharing ordinance was adopted, the application and registration process was intentionally made as simple as possible to encourage voluntary registration. This was based on the research of other cities that were experiencing difficulty in getting hosts to register. This included: no special permitting fees, a streamlined application process, and no on-site inspections. When the program was launched staff did on occasion conduct exterior visual inspections of properties primarily as an educational tool. However, staff has not completed any interior inspections due to the increased resources that would be necessary and the potential deterrent to registration. Home-sharing permits are valid for one year at a time and thus must be renewed annually.

Under the proposed ordinance, an ADU which received its building permit on or after March 31, 2017 would constitute a separate dwelling unit and thus could not be occupied by exclusive transient uses. ADUs with building permits prior to March 31, 2017 or any non-ADU accessory structures (e.g. an Accessory Structure or Building which may not contain a kitchen or may only contain a sink and toilet but not a shower), could continue to be occupied by exclusive transient uses.

The proposed ordinance also makes a minor clarification to the definition of “Vacation Rental” to provide greater clarity and to align with existing regulations.

Next Steps

In order to effectuate Council’s direction, Staff will update the administrative regulations and home-sharing business license application package prior to the 2017/18 renewal cycle to more clearly reflect the distinction between an Accessory Structure or Building from an Accessory Dwelling Unit.

Alternatives

The Council could choose to eliminate exclusive transient uses for all ADUs, including ADUs with building permits prior to March 31, 2017. If so, staff recommends allowing any existing ADUs with home-sharing permits to continue existing operations until the expiration of their annual home-sharing permit.

Financial Impacts and Budget Actions

There is no immediate financial impact or budget action necessary as a result of recommended action.


Prepared By: Salvador Valles, Assistant Director of PCD

Approved

Forwarded to Council


David Martin, Director

6/1/2017


Rick Cole, City Manager

6/6/2017

Attachments:

- A. December 14, 2016 Planning Commission Meeting
- B. February 14, 2017 Council Meeting Staff Report

C. February 28, 2017 Council Meeting Staff Report

D. Ordinance

E. Written Comments

ORDINANCE NUMBER _____ (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA
AMENDING SANTA MONICA MUNICIPAL CODE SECTION 6.20.010 RELATING TO
ACCESSORY DWELLING UNITS AND VACATION RENTALS

WHEREAS, a central and significant goal for the City is preservation of its housing stock and preserving the quality and character of residential neighborhoods. Santa Monica places a high value on cohesive and active residential neighborhoods and the diverse population which resides therein. The City must preserve its available housing stock and the character and charm which result, in part, from cultural, ethnic, and economic diversity of its resident population as a key factor in economic growth; and

WHEREAS, Santa Monica's natural beauty, its charming residential communities, its vibrant commercial quarters and its world class visitor serving amenities have drawn visitors from around the United States and around the world; and

WHEREAS, there is within the City a diverse array of short term rentals for visitors, including, hotels, motels, bed and breakfasts, vacation rentals and home-sharing, not all of which are lawful; and

WHEREAS, operations of vacation rentals, where residents rent entire units to visitors and are not present during the visitors' stays, frequently disrupt the quietude and residential character of the neighborhoods and adversely impact the community; and

WHEREAS, recently, the state of California has enacted legislation to encourage the construction of accessory dwelling units (ADU) in order to reduce the severe housing shortage, especially affordable housing shortage, in California; and

WHEREAS, using ADUs for vacation rental purposes would not meet this goal of easing housing shortage.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES ORDAIN AS FOLLOWS:

SECTION 1. Santa Monica Municipal Code Section 6.20.010 is hereby amended as follows:

Chapter 6.20.010 Definitions.

For purposes of this Chapter, the following words or phrases shall have the following meanings:

(a) **Home-Sharing.** An activity whereby the residents host visitors in their homes, for compensation, for periods of thirty consecutive days or less, while at least one of the dwelling unit's primary residents lives on-site, in the dwelling unit, throughout the visitors' stay. An Accessory Dwelling Unit, as defined by the Zoning Ordinance, which received its building permit on or after March 31, 2017, constitutes a separate dwelling unit for the purpose of defining a Home-Sharing activity.

(b) **Host.** Any person who is an owner, lessee, or sub-lessee of a residential property or unit offered for use as a vacation rental or home-share. Host also includes any person who offers, facilitates, or provides services to facilitate, a vacation rental or home-share, including, but not limited to, insurance, concierge services, catering,

restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit regardless of whether the person is an owner, lessee, or sub-lessee of a residential property or unit offered for use as a vacation rental or home-share. Any person, other than an owner, lessee, or sub-lessee, who operates home-sharing or vacation rental activities exclusively on the Internet shall not be considered a host.

(c) **Hosting Platform.** A person who participates in the home-sharing or vacation rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

(d) **Booking Transaction.** Any reservation or payment service provided by a person who facilitates a home-sharing or vacation rental transaction between a prospective transient user and a host.

(e) **Person.** Any natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, or organization of any kind.

(f) **Vacation Rental.** Rental of any dwelling unit, in whole or in part, within the City of Santa Monica, to any person(s) for exclusive transient use of thirty consecutive days or less, ~~whereby the unit is only approved for permanent residential occupancy and not approved for transient occupancy or home sharing as authorized by this Chapter.~~ Exclusive transient use shall mean that none of the dwelling unit's primary residents lives on-site, in the dwelling unit, throughout any visitor's stay. Rental of units

located within City-approved hotels, motels and bed and breakfasts shall not be considered vacation rentals.

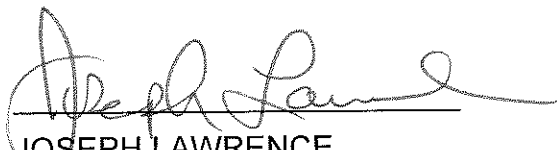
SECTION 2. The amendment to Section 6.20.010(f) shall be considered declarative and clarification of existing law.

SECTION 3. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:



JOSEPH LAWRENCE
Interim City Attorney

Vernice Hankins

From: Michele Perrone <micheleperrone@me.com>
Sent: Sunday, June 11, 2017 3:31 PM
To: Winterer Ted; Himmelrich Sue; Kevin McKeown Fwd; Gleam Davis; Tony Vazquez; Pam OConnor; Terry O'Day; Council Mailbox; Santa Monica City Manager's Office; Clerk Mailbox
Cc: Auch David; Marlow Mary
Subject: Item #7

Honorable Mayor Winterer and City Council Members,

I understand you are discussing short-term rentals this Tuesday, which looks to be an effort to further limit the possible scenarios where it can be used. I sincerely hope you do not do that. Rather, please take a second look at the impacts, most especially how the current ordinance affects an often-forgotten demographic in Santa Monica: middle-class, close to retirement and retired homeowners. I know we are small groups, but, we are here. Many people, lost their life-savings in the crash of 2008. Many are still hanging on by a thread, especially in these 3 demographics. Renting out a small guest house or studio apartment short term could their saving grace. It could make the difference whether many of us can stay in our homes, age in place, or, have to move from a community we've become deeply connected to, and have grown to love.

How can this be good for Santa Monica, the city that is always looking for housing, especially affordable? It could be assumed that some of these same people, if forced to leave their homes, could be in need of subsidized housing, putting additional pressure on the housing market. The same people who have contributed via taxes, community involvement or just being a good neighbor. So, while the city is trying to create ways for people to get affordable housing you are creating a further need by not allowing these particular homeowners to use the benefit of a short-term rental on their own property, which they work very hard to keep and keep up. I must believe you can see this.

Most residents naturally agree that short-term rentals are bad for the community when in apartment buildings and/or when the owner does not live on the property. But, there are some instances it is very beneficial to your residents, the neighborhood and Santa Monica itself. The current ordinance allows short-term on single family properties with guest houses, again, a saving grace for many people. Why not at least mimic what is currently allowed on single family parcels in a duplex parcel? Guest houses usually only have 1 bedroom or less, so you could make this a condition. Duplexes like this are scarce in Santa Monica and it would have minimal, to zero, net impact on neighborhoods.

Overall, one could easily argue there are more plusses than minuses in allowing short-term rentals of a duplex, and maybe even in triplexes, if small and only one of the 3 units. If a blanket law permitting duplexes is unpalatable to the city, how about limiting it to 55 and older? 2 guests? Single parent with one child? And, again, what about only 1 bedroom or less? Thus, lessening any perceived impact on the rental market.

Here are some the reasons, I believe, it would be beneficial to the community:

1) **Keeping the character of the neighborhood**. This is huge. As homes and properties are sold, they are usually replaced by maximum sized homes and condominium projects. In multi-family neighborhoods, like Ocean Park, old houses are being torn down and replaced by 3 unit condo projects, completely built out. Many people are complaining about it. And, as these high-end projects come in the property values and price of surrounding rentals goes up.

2) **As mentioned, homeowners over the age of 55, who are close or at retirement age, need the extra income to stay here and retire in place.** Income goes up very slowly, if at all, in this age bracket. Since the crash of 2008 prices have gone up exponentially, while property and sales taxes continue to rise. This is unlikely to stop. Money that used to afford a comfortable lifestyle is quickly run through, making it hard to make ends meet. The crash of 2008 hit everyone hard, and after a certain age it is very hard to replenish what one lost. Allowing these residents to home-share would help keep a diverse age group in the neighborhoods, while having **no impact on the rental markets,** since they are not under rent control in the first place.

With a landlord living there, guests are not likely to disturb the quiet of any neighborhood. Limiting it to 2 guests also makes it very unlikely there will be a disturbance. And, owners being there will not tolerate it.

3) **Additional revenue for the city.** The city receives a high tax from the short-term rental platform. It was mentioned in a meeting with David Martin, and his staff members, one of the negative impacts on the community is people aren't using our schools. This might help make up for it?

4) **Makes Santa Monica affordable to visit, and makes Santa Monica look good!** It contributes to tourist dollars while giving a guest an authentic experience of life here, and, a good impression of Santa Monica. Who of you has stayed in an airbnb when traveling. It is a special experience.

5) **It is fun and enriching to meet people from around the world.** People are using short term rentals all around the world. It is part the "share economy." The direct interaction with people from foreign countries is a way to get to know another culture in an authentic manner, promoting understanding and tolerance.

Again, in addition to allowing single-family parcels rent out their guest houses short-term, please at least allow duplex owners to rent small units, as well. Don't change the current ordinance, which could put those who currently count on that income into a bad or unpredictable position. Why do that to your long term, hard-working residents? Why face the potential to put your long time residents in a situation where they, too, need subsidized housing or have to move out of town?

People deserve to age in place. They deserve to not be forced to move if they have struggled to keep a home and been a good citizen. They deserve to take advantage of this potential when it doesn't hurt anyone else!

Thank you very much for taking the time to read this email and consider this option. It would make such a difference!

Sincerely,

Michele Perrone
Santa Monica Resident since 1991
Santa Monica Homeowner since 1997
310-600-3838

Vernice Hankins

From: Council Mailbox
Sent: Monday, June 12, 2017 4:47 PM
To: Ted Winterer; Gleam Davis; Pam OConnor; Sue Himmelrich; Terry O'Day;
Councilmember Kevin McKeown; Tony Vazquez
Cc: councilmtgitems
Subject: FW: Short term rentals

Council-

Please see the email below regarding short term rentals.

Thank you,

Stephanie

From: Studio RoJa [mailto:roja57@earthlink.net]
Sent: Friday, June 9, 2017 8:18 PM
To: Council Mailbox <Council.Mailbox@SMGOV.NET>
Subject: Short term rentals

Dear Council Members,

I am writing to address the issue you will be discussing at the next council meeting regarding Accessory Dwelling Units. I am currently renting my converted garage/granny unit (converted in the 1940's) and listing it on Airbnb. I've lived in Santa Monica for 33 years and am a Los Angeles native.

I hope you will not eliminate my ability to rent through Airbnb. I've been doing for the past 8 months and it has been an amazing experience and here's why:

1. The income it generates has helped me as a single mom stay in my home and that's no lie!
2. I've rented my place to the nicest people from all over the world and for whom I've been able to share my knowledge of the city and everything in it. I stayed at an Airbnb in Turkey and it was so great to interact with my Turkish host and learn about their culture.
3. I've rented to many grandparents who are visiting their kids and grandkids in Santa Monica
4. I've rented to visiting professors who have had conferences at UCLA and The Getty
5. I've rented to the relatives of my neighbors who live on my block
6. I've rented to many foreign students who told me they appreciated my guest house because they can't afford the high cost of Santa Monica hotels

If you change the rules and if you only let me rent my unit to a long term tenant then I will probably charge a high monthly rent and it will probably be rented to a well off Santa Monica/Venice Tech worker.

With those two alternatives of short and long-term rental, which do you think is the better one? The many people I've met who are renting on Airbnb are not money grubbing landlords but thoughtful homeowners trying to make ends meet in this difficult economy.

Thank you for your time!

Sincerely

Jami Miyamoto
310-399-3615

Vernice Hankins

From: Council Mailbox
Sent: Tuesday, June 13, 2017 9:52 AM
To: councilmtgitems
Subject: FW: Item #7

From: David Auch [mailto:dwauch@gmail.com]
Sent: Tuesday, June 13, 2017 9:46 AM
To: Ted Winterer <otedo@aol.com>; Himmelrich Sue <sue.himmelrich@gmail.com>; Kevin McKeown Fwd <kevin@mckeown.net>; Glean Davis <Glean.Davis@SMGOV.NET>; Tony Vazquez <Tony.Vazquez@SMGOV.NET>; Pam OConnor <Pam.OConnor@SMGOV.NET>; Terry O'Day <Terry.Oday@smgov.net>; Council Mailbox <Council.Mailbox@SMGOV.NET>
Cc: Santa Monica City Manager's Office <manager.mailbox@SMGOV.NET>; Clerk Mailbox <Clerk.Mailbox@SMGOV.NET>; Marlow Mary <mymarlow7@icloud.com>; Michele Perrone <micheleperrone@me.com>
Subject: Re: Item #7

Dear Mayor Winterer and City Council.

I urge you to please support limited, smart expansion of short-term rentals for current small, owner-occupied properties.

Done thoughtfully and with guidance, care and monitoring, short term rentals can:

- 1) **help current and long-time residents and seniors remain in our community**
- 2) **help us earn a decent income.** Santa Monica and LA have become very expensive, especially over the past 5-8 years. Short term rentals can help overcome the rising cost of living in our community
- 3) **help maintain the character of Santa Monica.** As someone who lives in Ocean Park next to a new mcMansion at Ocean Park and 5th, I see first hand the impact of current market forces. This new, very large home replaced two rentals on a small lot, and the developer scored a quick and sizable profit. Short term rental rules can be designed to promote reuse and refurbishment of existing building. I could afford to clean up my existing guest house. And as an owner living on the property, tenants would be very carefully screened and meticulously monitored.

Thank you for your consideration of this important matter.

David Auch
2532 5th Street

On Jun 11, 2017, at 3:31 PM, Michele Perrone <micheleperrone@me.com> wrote:

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