



BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND, WA

AB 5588
July 16, 2019
Regular Business

**CODE COMPLIANCE AND SHORT-TERM
RENTALS DISCUSSION**

Action:
Provide direction on code
compliance procedures.

- ☐ Discussion Only
☒ Action Needed:
☒ Motion
☐ Ordinance
☐ Resolution

DEPARTMENT OF	Community Planning and Development (Alison Van Gorp)
COUNCIL LIAISON	n/a
EXHIBITS	n/a
2019-2020 CITY COUNCIL PRIORITY	n/a
APPROVED BY CITY MANAGER	

AMOUNT OF EXPENDITURE	\$	n/a
AMOUNT BUDGETED	\$	n/a
APPROPRIATION REQUIRED	\$	n/a

SUMMARY

Recently, the City received several complaints related to a home being used as a short-term rental, with large numbers of guests and nuisance issues such as noise and parking. At the request of the City Council, this item was added to the agenda with the purpose of: A) summarizing the city's current code compliance procedures and codes related to short-term rentals, and B) identifying options to quickly and proactively address impacts resulting from the operation of businesses (including short term rentals) in a fashion that impacts neighborhood character.

BACKGROUND

Code Compliance Process

On September 17, 2018 the City Council approved adoption of Ordinance No. [18C-06](#) creating a new code compliance chapter in the city code ([MICC 6.10](#)). Since that time, the City has updated the administrative procedures for the code compliance process. The code compliance process is primarily complaint-based, meaning that the city responds to complaints and does not proactively identify/investigate potential code violations. Complaints related to life/safety issues or a serious threat to the environment are prioritized over other complaints.

A summary of the standard code compliance procedure is provided below. Currently, the Code Compliance Officer is managing about 60 active cases. The standard code compliance procedure supports the timely resolution of code compliance cases – one of the goals of Ordinance No. 18C-06. This procedure and timeline are followed for all complaints, unless the complaint relates to a life/safety issue or a serious threat

to the environment, in which case action is taken more swiftly (often in the form of a Stop Work Order or revoking occupancy on a dangerous building).

Code Compliance Procedure:

- 1. Investigation** – After a complaint is received, the Code Compliance Officer (“CCO”) reviews property records, conducts a site visit, and otherwise investigates the complaint as is warranted.
- 2. Courtesy Notice** – If a violation is identified, the CCO will send a Courtesy Notice to the person responsible (typically the property owner). The Courtesy Notice outlines the violation(s) and lists the corrective actions that are required for compliance. A compliance date is typically set 14 days from the date of the notice.* The person responsible is required to contact the CCO within the 14-day period and to either correct the violations or establish a plan and timeline for making the corrections. The CCO will set deadlines for the necessary actions that are reasonable and based on the actions that need to be taken.
- 3. Notice of Violation** – If the person responsible does not respond or come into compliance within the 14-day period identified in the Courtesy Notice, a Notice of Violation (“NOV”) will be sent. The NOV again identifies the codes that have been violated and the required corrective actions. The NOV has a mandatory 14-day appeal period. Typically, the CCO also sets the compliance date for 14 days after the date of the notice.* This provides simplicity and clarity with both the appeal and compliance deadlines falling on the same date. If compliance has not been achieved by this date and the person responsible has not filed an appeal, civil penalties will begin to accrue.
- 4. Civil Penalties** – Civil penalties accrue daily after the compliance date in the NOV has passed and the person responsible has not appealed or come into compliance. The penalties accrue at \$100 per day for each violation for the first 30 days. Thereafter, the penalties increase to \$250 per day/per violation for days 31-60 and to \$500 per day/per violation for days 61-90. The maximum penalty that can be levied is \$50,000.

*Note: the indicated timelines are set administratively and are not prescribed by code.

Short Term Rentals

Short-term rentals (i.e. rentals with a term of less than 30 days) are not an allowed use pursuant to Mercer Island City Code ([19.02.010\(A\)](#)), except with a Conditional Use Permit (“CUP”) for a Bed and Breakfast (MICC 19.02.010(C)(7)). A business license is also required for businesses that generate an income ([MICC 5.01.040](#)).

Over the last 6 weeks, the City has received several complaints and concerns related to short-term rentals, most of which were directed at a specific property on East Mercer Way. A Courtesy Notice was sent to the property on June 19, 2019. The Courtesy Notice identified two paths for compliance:

1. Ceasing all new rentals and canceling all existing reservations that were more than 90 days out (September 19, 2019 and later). Existing reservations within the 90 days were allowed to continue, as long as the noise, parking and over-occupancy issues did not continue.

OR

2. Applying for a Conditional Use Permit, with no new short-term rentals while the CUP is under review.

The City did not receive a response from the property owner. The City did receive continuing complaints about noise, parking, and over-occupancy between June 20 and July 8. Consequently, a NOV was issued on July 9.

Due to the ongoing complaints and the failure of the property owner to contact the City in response to the Courtesy Notice, the compliance date was set for eight days from the date of NOV, shorter than the typical 14 days. Additionally, the prior leniency for existing bookings was revoked. The NOV required the property

owner to cease and desist from short-term rentals. Existing reservations must be canceled, and all future rentals are prohibited. The City has also contacted Airbnb, the short-term rental scheduling site, to notify them of the ongoing code violation and ask for their cooperation in resolving the issue.

The City also intends to notify short-term rental companies operating on the Island, including Airbnb and VRBO, that they must stop facilitating code violations through the operation of short-term rentals that do not have the necessary CUP.

COUNCIL GUIDANCE

Staff identified the following options for addressing the challenges created by short-term rentals and home-based businesses that disrupt or significantly impact community or neighborhood character. Two of the options are actionable in the near-term and the other two are longer term approaches. Staff are seeking Council direction on which of these options to pursue:

Near-Term Actions:

1. Proactive code enforcement. Identify existing short-term rentals via websites like Airbnb and VRBO and provide notice to the property owners of the code requirements for continued operation as a short-term rental (conditional use permit), followed by additional enforcement action as necessary to bring the units into compliance in a reasonable time frame. This action also includes direct notice to Airbnb, VRBO and other similar websites of the code requirements and the expectation that they will comply with City regulations. This option is the best method for ensuring consistent compliance with the current code requirements for short-term rentals. This will also require significant staff resources and will prioritize this work over other types of code compliance cases.
2. Re-prioritize code compliance. Elevate the priority of complaints about short-term rentals and other home-based businesses for a swifter response from code compliance. This will result in shortened timelines for compliance and will likely resolve violations more quickly. This option has the benefit of focusing resources on the properties that are causing issues in terms of nuisance impacts in neighborhoods. This action also includes direct notice to Airbnb, VRBO and other similar websites of the code requirements and the expectation that they will comply with City regulations.

Longer-Term Actions:

3. Add a code amendment to the CPD work plan. Short-term rentals are growing in popularity and many cities are beginning to directly regulate their operation. The Mercer Island City Code does not specifically address short-term rentals, aside from the CUP option for bed and breakfasts, which appears to be a holdover from a time period that pre-dates the Airbnb or VRBO business models. Direct regulation of short-term rentals and home-based businesses and their impacts on residential neighborhoods warrants further legislative action. Telecommuting, freelancing and new business models continue to expand the use of private homes and vehicles for business uses, beyond what was contemplated with the existing code. The City may want to further consider the impacts to neighborhood character generated by these uses such as noise, parking and traffic, as well as potential tax revenue from these business operations.
4. Identify other means and methods of improving code compliance. Staff anticipates that three years after adoption of Ordinance No. 18C-06 (Fall 2021), the City Council will desire an update on the effectiveness of the new code compliance regulations, and identification of any recommended further action. Such recommendations may include amendments to the code compliance language, a shift in current resource allocations, or the allocation of new resources.

Staff is seeking direction from the City Council on how to proceed with code compliance related to the operation of short-term rentals and other home-based businesses. In addition, Council may also wish to provide direction on the longer-term actions.

RECOMMENDATION

CPD Ombudsman

MOVE TO: Authorize the City Manager to direct staff to pursue proactive code enforcement on short-term rentals (*Option 1*).

Or, alternatively;

MOVE TO: Authorize the City Manager to direct staff to pursue proactive code enforcement on short-term rentals and to prioritize code compliance on complaints related to short-term rentals and home-based businesses that are impacting neighborhoods (*Options 1 and 2*).