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From: [Marilyn Avila](#)
To: [Joe Vinatieri](#); [Cathy Warner](#); [Fernando Dutra](#); [Octavio Cesar Martinez](#); [Mary Ann Pacheco](#); [WebMail - CCD](#)
Cc: [Brian Saeki](#); [Ben Pongetti](#)
Subject: Short Term Rental proposed ordinance requirements
Date: Friday, August 30, 2024 3:11:42 PM

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Mayor, Mayor Pro Tem, and Council Members,

Regarding the proposed Short Term Rental Ordinance that is currently being drafted, we have some comments on each of the 11 requirements to be considered by the City that must be met to acquire a permit.

#1. The 10% Transient Occupancy Tax (TOT) as a new source of income should not be the sole motivational factor to permit “non-owner occupied commercial STR businesses” to be owned and operated by Whittier residents in our R-1 zones. Whittier residents operating them is the same problem as outside commercial investors operating them. It is paid for with the irritation and continual disturbances suffered by the neighboring households. These neighbors should not have to endure this violation of their right to the peace and quiet enjoyment of their home life.

#2. STR permit renewal every 6 months is only viable if rules and regulations are strictly enforced.

#3. Prohibition of events such as parties is only viable if rules and regulations are strictly enforced.

#4. In addition to the “guests” of the STR, the Good Neighbor Policy should extend to all neighboring homes where the STR is located. Surrounding neighbors should be notified with the address of the STR that is operating in their neighborhood, and the names and phone numbers of the owners. The policy should include all rules and regulations that would list any possible violations committed by the owners or guests. It should also include the names and phone numbers of the City departments to notify when these violations occur.

#5. Seven days minimum is a good limit only if rules and regulations are strictly enforced.

#6. The requirement that you propose here states that “the owner must live on the STR property for 50% plus one day of the year, or if the owner doesn’t live on the STR property, they must live elsewhere within the city (primary residence requirement)”.

“Primary residence” is an established legal term. The definition cannot imaginatively be changed by anyone to fit their requirements. Its definition states that if the owner doesn’t live on the property where the STR is located, it invalidates the meaning of the “primary residence requirement”, in the way you have attempted to use it. What it describes instead is the unquestionable description of a “non-owner occupied short term rental commercial business”. Thirteen cities that we have researched, as well as Los Angeles County Unincorporated, explain the exact meaning of “primary residence”. A “primary residence” means that where the STR property takes place is the “primary residence” or “principal residence” of the owner. It is the legal address for tax returns, bank accounts, utility bills, U.S. Postal Service, driver’s license, voter and vehicle registration. It is the home where you live and sleep. This definition can be found in numerous places such as the IRS, the California State Board of Equalization, residential real estate law attorneys, etc. The owner lives there a minimum of 50% of the year plus 1 day. This is the only home the owner is permitted to rent out as a short term rental that meets the “primary residence” requirement.

You must definitively convey the true meaning of the term “primary residence requirement”. It is not a

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term to be misinterpreted and misused by the City Manager and the City Council. It is one thing to just say you are permitting only Whittier residents to own and operate “non-owner occupied STR commercial businesses” in our residential zones. It is a completely different thing to try and change the true definition of “primary residence requirement” from the house that is lived in to the city that is lived in, as justification to fit it into your proposed new STR ordinance. This is an unacceptable attempt to change an established definition. “Primary residence requirement” definitively applies to an “owner-occupied primary residence only STR”. We support “owner-occupied primary residence only STRs” in our R-1 residential zones.

Your proposed requirement for Whittier residents that “they must live elsewhere within the city” is the definitive description of a “non-owner occupied STR commercial business”. “Non-owner occupied STR” means that the property where the STR takes place is either a secondary residential property or an investment property whose sole purpose is that of a short term rental business. The ownership of a second or additional residential property is classified as an investment property by the IRS, the California State Board of Equalization, mortgage companies, and real estate law attorneys. The difference between the established definitions of “owner-occupied primary residence only STR” and “non-owner occupied STR commercial business” should be clearly explained and added onto your list of proposed requirements so that Whittier residents can know and understand them. Clarify your wording and meaning so that the City Council knows exactly what they will be voting on to be drafted into the new STR ordinance. Whittier residents have the right to know and understand exactly what is being proposed by the City Council and City Manager. This new STR ordinance will affect the quality of life of many Whittier residents for years to come. Property rights do not include the right to infringe on another neighbor’s property rights by operating “non-owner occupied STR commercial businesses” in residential neighborhoods. We are against “non-owner occupied STR commercial businesses” in our R-1 zones.

#7. Fines and revocations are a good control and deterrent only if they are strictly enforced.

#8. The limitation on the number of guests is only viable if it is strictly enforced.

#9. A 1,000 foot radius buffer to control STR density as it is being drawn, is an ineffective solution. There will be unregulated areas throughout the city where the circles do not meet. A 1,000 ft. square grid pattern will cover those areas and leaves no unregulated gaps. However, if you are unfortunate enough to live next door or across from an STR, there is no buffer zone.

#10. STRs limited to one per property should only be permitted if they fit into the one STR per 1,000 ft. buffer zone limitation, as was previously stated by the City Council, to limit and control STR density.

#11. STR permits issued based on meeting parking requirements are only viable if the rules and regulations are strictly enforced.

We see that you did not list your “grandfather in” proposal to permit certain Whittier residents to continue to operate up to 4 STR businesses each. This is an unreasonable and questionable special provision you are willing to create for certain Whittier residents. Mayor Joe Vinatieri said at the 7/23/2024 City Council meeting, that it could create a “harm to existing business relationship” to not “grandfather in” existing STRs already owned by Whittier residents. At the same meeting Brian Saeki, the City Manager, said it would be a “one shot deal” to permit Whittier residents to “grandfather in” up to 4 STR businesses each (as long as they meet the requirements during the permit application process). This is exactly the same problem as allowing outside commercial investors to own and operate multiple STRs in our R-1 zones. This is not an acceptable solution to our STR problem. Every STR owner should be permitted to own and operate only one “owner-occupied primary residence only STR” within the 1,000 ft. buffer zone. The same laws should apply equally to everyone with no “grandfather in” special provision. We are against the proposed special provision to “grandfather in” multiple STRs for Whittier residents who currently own and operate them while violating, by disregarding, the permitted uses list in the R-1 zone code.

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Council Meeting: 9/10/2024
Agenda Item No. 10

Thank you,

Leonard & Marilyn Avila
Greenleaf Avenue
Whittier