



CITY COUNCIL AGENDA REPORT

MEETING DATE: November 5, 2013

ITEM NUMBER:

**SUBJECT: INTRODUCTION OF PROPOSED EXCESSIVE USE OF RESOURCES
ORDINANCE**

DATE: OCTOBER 22, 2013

FROM: CHIEF EXECUTIVE OFFICE

PRESENTATION BY: RICHARD FRANCIS, ASSISTANT CHIEF EXECUTIVE OFFICER

FOR FURTHER INFORMATION CONTACT: MARGARET CHANG (714) 754-5618

RECOMMENDATION:

Staff is seeking City Council and public input on a proposed ordinance to recover costs from motels that generate higher than usual calls for service for criminal activity, thereby using excessive city resources. The Council may direct staff to place the first reading of said ordinance on a future City Council meeting agenda.

BACKGROUND:

There are motels within the City that utilize a substantial amount of City resources, including code enforcement, emergency medical and police services, and as a result, they are threatening the peace, health, safety, and/or general welfare of the public. The proposed ordinance will establish a comprehensive notification and enforcement process designed to collaboratively work with motel owners, tenants, and those who manage said properties to address chronic nuisances of a criminal nature. It will also deter motel owners and occupants from repeating nuisance activities and hold them accountable for the nuisance activities.

ANALYSIS:

The proposed ordinance will be Chapter XI (Cost Recovery for Excessive Use of Resources) of Title 14 (Police and Law Enforcement) of the Costa Mesa Municipal Code. The purpose of this proposed ordinance is to allow the city to obtain reimbursement from responsible motel owners whose property utilizes an excessive amount of City resources because of recurring nuisance activities.

Nuisance activities as defined in the proposed ordinance are summarized as follows:

Disturbing the peace (violations of Penal Code Section 415); noise/sound issues; illegal use or sale of fireworks; exceeding maximum occupancy rules; gang-related crime; illegal use of a firearm; illegal use, sale, or manufacturing of a firearm; underage drinking; illegal use, sale, or possession of controlled substances; loud parties; criminal activity; commission or attempted commission

of any serious/violent felony; and commission or attempted commission of prostitution.

The proposed ordinance will be applied to any motel within the City. A motel can only be considered under the Proposed Ordinance if law enforcement has either been dispatched to the property for any nuisance activity described above, or when officers in their normal course of duty observe such activity. The provisions of this proposed ordinance will be enacted when nuisance activity is determined to be greater than the following threshold:

Threshold

Before the City can issue a notice of nuisance activity pursuant to proposed Section 14-84, each motel shall be entitled to a monthly allotment of calls, calculated as follows:

Each motel would be permitted to have one-half (.5) a call for service per room for the crimes listed in proposed Section 14-81(k) of the ordinance on an annual basis. (Currently, motels are averaging 2.14 calls for service per room for the first 6 months of 2013 and they averaged 2.11 calls per room in 2012. These calls, however, currently include calls for offenses or issues that are not included in proposed Section 14-81(k).) The number of rooms for each motel shall be divided by 12 to determine the monthly allotment of calls. For example, if a motel has 100 rooms, it can incur four (4) calls for service per month ($100 \times .5/12$) for the offenses listed in proposed Section 14-81(k). On any given month, if that motel exceeds its threshold, the provisions of the ordinance may be invoked. The City will retain discretion to invoke this ordinance in the event a single room produces more than one-half a call for service per month for the defined crimes.

This approach contemplates the possibility that a motel will in some instances have guests or visitors who, despite the motel's best efforts, may engage in criminal behavior. However, as there are clear differences between well-run and poorly-run motels in the number of calls and the severity of offenses being committed on the property, requiring motels who rise to the level of public nuisance to reimburse the City for excessive use of police resources strikes a reasonable balance such that operators who exhaust a disproportionate amount of police resources are required to reimburse the City for the services that are above and beyond what is considered normal for such a business. Motel owners whose properties are experiencing higher than normal incidents of criminal activity are encouraged to hire private security to better monitor their specific issues.

Any property that receives a nuisance incident notice will then be billed for any subsequent police response. All requests for appeals, rehearings, and reviews must follow the procedures and timelines set forth in Chapter IX of Title 2 of the City's Municipal Code.

Cost Recovery Methodology

Staff is working to establish an appropriate cost recovery methodology that will be finalized soon should the Council decide to move forward with this proposed ordinance. One such methodology assumes dividing the average number of annual calls for service (3-year average = 95,300) by the total police department budget (2013-14 = \$40,248,392). Using this methodology will yield a cost recovery of approximately \$423

per call; however, it would be prudent to offset this amount by 30% in order to counteract charges for services not likely attributed to motel enforcement. As such, a fine in the amount of \$295 seems appropriate.

ALTERNATIVES CONSIDERED:

The City Council can choose not to further explore imposition of this ordinance at this time. The Council may also direct staff to create an alternative call for service threshold and/or cost recovery methodology.

FISCAL REVIEW:

No fiscal review is required for this item.

LEGAL REVIEW:

The City Attorney has reviewed this report and will prepare a draft ordinance for further consideration based on Council direction.

CONCLUSION:

Adoption of an Excessive Use of Resources ordinance would allow the City to identify certain properties for repeating nuisance activities and hold them accountable through police service fines.

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