



## **CITY COUNCIL**

**Meeting Date: November 18, 2021**

**From: Michael Roush, Legal Counsel**

**Subject: Ordinance No. 668 Ordinance to Impose Higher Administrative Citation Fines for Violations of the City's Short**

**Term Residential Rental Ordinance**

**Recommendation:** Introduce the attached Ordinance.

### **Background**

In lieu of issuing violators of local ordinances criminal citations, the California Government Code authorizes local agencies to issue administrative citations for such violations. Typically, these procedures are more streamlined than in the criminal court context. The City has adopted administrative citation procedures and they are set forth in Chapter 1.16 of the Brisbane Municipal Code.

The Government Code limits the amount of the administrative fines that may be imposed on violators: for the first offense, \$100; for the second offense with a 12-month period, \$200; and for the third and any subsequent offense within a 12 month period, \$500. Although the amount of these fines is not significant, they are sufficiently high that most violators will choose to comply rather than continue to face \$500 fines for violating an ordinance.

Cities throughout the State, however, that have adopted ordinance concerning short term residential rentals ("STR") have discovered that the amount of the fines pursuant to administrative citations have not been a sufficient deterrent to property owners violating a city's STR ordinance. In other words, property owners that are charging several hundred dollars a night in rent on a short term basis may well choose to pay a \$500 fine and continue to rent on a short term basis, notwithstanding their lack of compliance with the local STR ordinance.

In response, the State Legislature passed and the Governor signed into law, on an urgency basis, legislation (SB 60) that authorizes cities to set higher monetary penalties for violations of STR ordinances where the violation poses a threat to public health or safety. Under the new law, a city may impose a fine up to \$1500 for the first offense, a \$3000 fine for a second offense within a 12 month period, and fine up to \$5000 for a third and any subsequent offense within a 12 month period. Imposing these higher fines is discretionary; not mandatory.

## Discussion

Although the number of property owners in Brisbane illegally engaging in short term rentals has dropped, there are still a limited number of property owners engaging in unauthorized STR activities. Council is aware of at least one owner who, notwithstanding receiving numerous citations for violating the City's STR ordinance, continued to rent the unit without a permit to do so. Neighbors affected by this unpermitted activity complained of late-night noise and cars parked illegally and haphazardly, both of which constituted threats to public health and safety.

Staff has drafted an ordinance for Council's consideration to adopt these higher penalties for violation of the City's STR ordinance. As permitted by statute, the draft ordinance imposes fines of \$1500 for the first offense, \$3000 for the second offense, and \$5000 for the third and any subsequent offense. In considering whether to introduce/adopt this Ordinance, Council has the discretion to reduce these amount of fines for the various offenses. For example, Council could impose a \$500 fine for the first offense, a \$1500 fine for the second offense, but leave the \$5000 fine for the third and subsequent offenses.

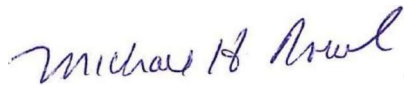
Because there have been issues with property owners' complying with the City's STR ordinance, staff recommends that Council adopt higher fines for these violations. Facing the prospect of higher fines will undoubtedly motivate most property owners to comply with the STR ordinance.

## Fiscal Impact

Adopting the ordinance will have no impact on the General Fund as enforcement activities, such as the City's contract with Host Compliance (to monitor and report STR activity in the City) are already funded.

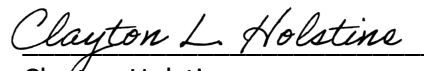
## Attachment

Ordinance No. 668



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Michael Roush  
Legal Counsel



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Clayton Holstine  
City Manager

**ORDINANCE NO. 668**

**AN ORDINANCE OF THE CITY OF BRISBANE TO AMEND SECTION 1.16.060 OF THE BRISBANE MUNICIPAL CODE CONCERNING THE AMOUNT OF ADMINISTRATIVE FINES FOR VIOLATIONS OF THE CITY'S SHORT TERM RESIDENTIAL RENTAL ORDINANCE**

**THE CITY COUNCIL OF THE CITY OF BRISBANE HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1. Section 1.16.060 of the Brisbane Municipal Code is amended to read as follows:**

"1.16.060 Amount of administrative citation fines.

- A. Amount of Fine. Except as set forth in subsection C of this Section 1.16.060, any party to whom an administrative citation has been issued shall be responsible for payment of a fine for violating the applicable law specified in the citation, determined as follows:
1. One hundred dollars (\$100) for a first citation;
  2. Two hundred dollars (\$200) for a second citation for the same violation within 12 consecutive months;
  3. Five hundred dollars (\$500) for each additional citation for the same violation within 12 consecutive months.

(Subsection B, no change).

- C. Amount of fine for violations of the City's Short Term Rental Ordinance. Any party to whom an administrative citation has been issued for a violation of the City's Short Term Residential Rental Ordinance (currently Ordinance No. 655, codified in Chapter 17.35 of the Brisbane Municipal Code), or any subsequently amended Short Term Residential Rental Ordinance, and where the violation posed a threat to public health or safety, shall be responsible for payment of a fine for violating the applicable law specified in the citation, determined as follows:
1. Fifteen hundred dollars (\$1500) for the first citation;
  2. Three thousand dollars (\$3000) for the second citation for the same violation within 12 consecutive months;
  3. Five thousand dollars (\$5000) for each additional citation for the same violation within 12 consecutive months.

SECTION 2: This Ordinance shall be in full force and effect 30 days after its passage and adoption.

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Karen Cunningham  
Mayor of the City of Brisbane

The above Ordinance was regularly introduced and after waiting the time required by law was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on \_\_\_\_\_, 2021, by the following vote:

AYES:

NOES:

ABSENT:


ABSTAIN

ATTEST:

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Ingrid Padilla, City Clerk

Approved as to form:



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Thomas R. McMorrow, City Attorney