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HOW TO VIEW THE MEETING: No physical location from which members of the public may observe the meeting and offer public comment will be provided. Please view the meeting, which will be live streamed at <https://malibucity.org/video> and <https://malibucity.org/VirtualMeeting>.

HOW TO PARTICIPATE BEFORE THE MEETING: Members of the public are encouraged to submit email correspondence to mlinden@malibucity.org before the meeting begins.

HOW TO PARTICIPATE DURING THE MEETING: Members of the public may also speak during the meeting through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called and then you must be present in the Zoom conference to be recognized.

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Malibu City Council
Zoning Ordinance Revisions and Code Enforcement
Subcommittee (ZORACES)
Special Meeting Agenda
(to be held during COVID-19 emergency)

Thursday, November 10, 2022

2:00 P.M.

Various Teleconference Locations

YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT
[MALIBUCITY.ORG/VIDEO](https://malibucity.org/video)

Councilmember Mikke Pierson
Councilmember Steve Uhring

Call to Order

Roll Call

Approval of Agenda

Report on Posting of the Agenda – November 9, 2022

1. Presentations

None.

2. Old Business

- A. Zoning Text Amendment No. 21-005 amending Malibu Municipal Code Chapter 17.68 (Temporary Use Permits) – Third Meeting

Recommended Action: Provide further discussion on draft amendments to the temporary use permit (TUP) process, including proposed language for farmers market temporary use, and provide feedback for staff to use in finalizing an amendment.

Staff Contact: Planning Director Mollica, 456-2489, ext. 346

3. New Business

- A. Approval of Minutes – April 14, 2022

Recommended Action: Approve the minutes for the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) Special meeting of April 14, 2022.

Staff Contact: Executive Assistant Linden, 456-2489, ext. 232

Adjournment

I hereby certify under penalty of perjury, under the laws of the State of California, that the foregoing agenda was posted in accordance with the applicable legal requirements. Special meeting agendas may be amended up to 24 hours in advance of the meeting. Dated this 9th day of November 2022, at 1:15 p.m.



Mary Linden, Executive Assistant



Zoning Ordinance Revisions and Code Enforcement Subcommittee Agenda Report

Zoning Ordinance
Revisions & Code
Enforcement
Subcommittee
Special Meeting
11-10-22

Item 2.A.

To: Zoning Ordinance Revision and Code Enforcement Subcommittee
(ZORACES) Members Pierson and Uhring

Prepared by: Adrian Fernandez, Assistant Planning Director

Approved by: Richard Mollica, Planning Director

Date prepared: November 9, 2022 Meeting date: November 10, 2022

Subject: Zoning Text Amendment No. 21-005 amending Malibu Municipal Code
Chapter 17.68 (Temporary Use Permits) – Third Meeting

RECOMMENDED ACTION: Provide further discussion on draft amendments to the temporary use permit (TUP) process, including proposed language for farmers market temporary use, and provide feedback for staff to use in finalizing an amendment.

BACKGROUND/DISCUSSION: On October 12, 2022, the Subcommittee conducted a second review of two draft TUP amendments (Versions 1 and 2) and provided feedback for staff. However, during the Subcommittee's discussion and prior to a formal motion and the termination of the Subcommittee accepting comments from the public, it was reported that a significant power outage occurred in the Point Dume neighborhood affecting a number of households. As the meeting was only conducted virtually, some members of the public were unable to share their feedback with the Subcommittee. As a result, a third Subcommittee meeting has been scheduled to continue discussions on this item and obtain a final recommendation from the Subcommittee. See Attachment A for the October 12, 2022, Subcommittee Agenda Report and Versions 1 and 2 of the proposed TUP amendments.

At the October meeting, the Subcommittee was in general agreement with the proposed modifications included in Version 1. However, there was discussion about further defining what would constitute an "arts, cultural and educational" event. Generally, the Subcommittee and staff recommended the following criteria be included in a definition: 1) number of attendees limited to 100 or less; 2) no admission charged; 3) organized and facilitated by a non-profit organization; 4) no use of amplified sound; and 5) event to be

held during standard park hours. For the third criteria, staff requests the Subcommittee's feedback on exploring the possibility of limiting it to Malibu residents/non-profits in coordination with the City Attorney's office.

The Subcommittee requested information on what other approvals the City would require for use of a City park or facility should events be exempt from the obligation to obtain a TUP. Staff clarified that the City would continue to require its Facility Use Permit that sets out various items such as event information, fees/rates, hours, rules (including use restrictions on certain parks), insurance requirements, and other approvals as may be needed from Los Angeles County Environmental Health Department, Fire Department, etc.

The Subcommittee did not agree on a recommendation regarding the provisions of Version 2, including the concept of introducing a new "Major TUP" into the process. Subcommittee discussion included the following points: 1) if a Major TUP were required, it should be allocated toward "larger events" only in order to ensure enhanced public review and reduce the number of Major TUPs required (a definition for what would constitute "larger events" was not discussed); and 2) including a Major TUP allowance would result in too many unknowns that could negatively affect the community, such as increased traffic congestion and concerns related to fire risk.

If the Subcommittee desires to limit the types of events allowed by a Major TUP, staff requests feedback on what would constitute a "larger event" (e.g., number of attendees, admission charged, etc.). Staff also requests feedback if the Subcommittee would consider reducing the noticing period for TUPs based on feedback received. Currently, public notices on a TUP are mailed 32 days prior to the proposed event; however, this can be difficult to achieve for some events due to timing logistics. The Subcommittee may wish to consider making the noticing period the same as other planning applications which range from 10 days to 21 days.

Finally, staff requests that the Subcommittee consider modifying the TUP language regarding farmers markets to facilitate allowing the farmers market to operate at Legacy Park. The current location of the farmers market is not ideal and has run into myriad problems during the construction on the Los Angeles County site. Adding the following proposed language could provide relief and an alternative location:

The temporary relocation of the Farmers Market to a Publicly owned park located within 350 feet of its permitted location. Such use shall not exceed one (1) event per week. The dates for this use shall not count against the maximum sixty (60) calendar days within one (1) calendar year for which a site can be used for temporary uses, nor towards the six (6) events per parcel limit. Any approvals for this use shall be good for one (1) calendar year.

STAFF FOLLOW-UP: Following comments from the Subcommittee, staff will develop a draft ordinance to MMC Chapter 17.68 (Temporary Use Permit). The Subcommittee can

recommend that staff present the draft to the Council for final comment prior to presentation to the Planning Commission or recommend that staff present the draft ordinance to the Planning Commission without further Council input.

ATTACHMENTS: October 12, 2022 Subcommittee Agenda Report, including TUP Amendment Versions 1 and 2



Zoning Ordinance Revisions and Code Enforcement Subcommittee Agenda Report

Zoning Ordinance
Revisions & Code
Enforcement
Subcommittee
Special Meeting
10-12-22

Item 2.A.

To: Councilmember Pierson and Councilmember Uhring

Prepared by: Adrian Fernandez, Assistant Planning Director

Reviewed by: Richard Mollica, Planning Director

Approved by: Steve McClary, City Manager

Date prepared: September 30, 2022

Meeting date: October 12, 2022

Subject: Zoning Text Amendment No. 21-005 to Amend Malibu Municipal Code Chapter 17.68 (Temporary Use Permits) (continued from April 14, 2022)

RECOMMENDED ACTION: Discuss potential draft amendments to the temporary use permit (TUP) ordinance and provide direction to staff for finalizing an amendment for Planning Commission and City Council consideration.

BACKGROUND: At its December 31, 2021 meeting, the City Council directed staff to define what is considered a temporary event, particularly for series of events, and bring back a draft ordinance for Council consideration. The primary objective of the draft amendments to the ordinance is to address the following items:

- Amend Malibu Municipal Code (MMC) Section 17.68.060(F) to clarify event timelines; and
- Clarify the permitting process for community-sponsored art-related events in public spaces.

At its April 14, 2022 meeting, ZORACES members discussed potential amendments to the TUP ordinance and provided feedback for staff to incorporate into a draft ordinance. It was requested that, prior to Planning Commission and City Council review, staff return to ZORACES for a final review of the draft concepts based on the feedback provided.

The members of the Subcommittee indicated they were not in agreement on various options for moving forward, but did agree on the following:

- Exempt art-related community events from requiring a TUP in publicly-owned parks;
- Allow for low-impact seasonal events/music in commercially-zoned settings, and
- Exempt events at the City Hall Council Chambers/Theater from needing a TUP

Generally, the following points were discussed by ZORACES members (not entirely in agreement on all points):

- The intent of the original TUP process was to allow events in locations/zones that otherwise are not allowed under the Code and to protect the quality of life for residents with early notification, and options to provide input and raise objections.
- The City should allow events which are of suitable size and scale for such at facilities designed to host such events without a TUP, in particular at Legacy Park, Malibu Bluffs Park, Trancas Park and City Hall.
- If the TUP ordinance is modified to allow more events, it must vet how the decision-making and public review process would also be adjusted to ensure scrutiny over the TUP request and protection for the community.
- The City should develop a process to issue TUPs for a “series” of events that technically extend beyond a consecutive 14-day period (e.g., event that occurs on three weekends in one month).
- Use the Planning Commission for enhanced review of certain TUP requests such as an event series, construction lay down yards and other requests that require additional scrutiny beyond staff-level review.
- If the Planning Commission is used, provide thresholds that trigger that review.
- Enforcement is a mechanism to address TUP issues and violations.
- Events operated under an approved conditional use permit (CUP) should be subject to the CUP (no TUP required).

DISCUSSION: Based on feedback from ZORACES, two versions of draft amendments of the City’s TUP ordinance were created. A detailed explanation of each version is provided below. In addition, staff requests that the Subcommittee provide guidance on what types of community events/music should be allowed in commercial spaces without the requirement of a TUP.

- Version 1 - “Status Quo with Limited Exemptions Added” (Attachment 1)
- Version 2 - “Improved Process with Enhanced Public Review” (Attachment 2)

Version 1 includes minor revisions to address community-sponsored, art-related events in City-owned spaces. Version 1 also includes a TUP exemption for arts, cultural and educational events held at the noted City parks and City Hall where the anticipated daily attendance does not exceed 100 guests and an admission fee is not charged. If the subcommittee is interested in an exemption for arts, cultural and educational events, staff requests that the subcommittee provide guidance on how to define arts, cultural and educational events. While Version 1 addresses some of the issues identified by the City Council and Subcommittee, it is limited and would not resolve other issues related to event timelines, enhanced public review of the TUP process, or providing a mechanism for events that operate as a series. Also, Version 1 includes minor clean up changes to reflect electronic processing of documents.

Version 2 incorporates Version 1 and builds upon it by restructuring the TUP ordinance to address event timelines, enhanced public review, and events that operate as a series. This could be achieved by creating two TUP types: Major TUPs (a new City process) and Minor TUPs (similar to the existing process). Major TUPs would require greater public scrutiny over certain event types before an approval could be granted because the Planning Commission would be the decision-maker (not staff) at a noticed public hearing. Approval of Major TUPs would require specific findings to be made and any decision would be appealable to the City Council. Minor TUPs would operate similar to the current TUP ordinance with staff-level review and approval but would be limited to certain types of events based on strict adherence to the criteria listed in the proposed ordinance. Minor TUPs would be appealable to the Planning Commission. Version 2 also includes minor cleanup items such as an improved Purpose statement, application requirements, and clarifications for certain uses and appeal timing.

Version 2 will require additional advance submittal of applications, staff time to prepare noticing, staff reports and presentations to the Planning Commission, and potentially higher permitting fees. Currently, TUPs are required to be submitted 35 days prior to the proposed use and the public notice is required to be mailed 32 days prior to the proposed event. However, it should be noted that applicants often have trouble meeting these deadlines and, in some cases, it encourages events to take place without TUPs.

STAFF FOLLOW-UP: Following comments from the Subcommittee, staff will develop a draft ordinance to MMC Chapter 17.68 (Temporary Use Permit) for recommendation by the Planning Commission and consideration and adoption by the City Council. If adopted by the City Council, the ordinance would go into effect thirty days after the second reading of the ordinance.

ATTACHMENTS:

1. Version 1 – Proposed TUP Amendment
2. Version 2 – Proposed TUP Amendment

PROPOSAL 1: MINOR REVISIONS TO ALLOW PUBLIC PARKS AND CITY HALL EVENTS, AND
LIMITED EXEMPTION FOR ARTS/CULTURAL/EDUCATIONAL EVENTS

Changes are made using underline / ~~striketrough~~.

17.68.010 Purpose.

The temporary use permit is intended to allow for the short-term placement of activities, many of which would be prohibited as permanent placements, in temporary facilities, public or private buildings or open spaces, or outside of buildings. Activities involving any commercial component such as: admission fee, renting of facility, charging for valet parking or shuttle service and/or public advertising shall require a temporary use permit. Temporary use permits shall be limited to four events per parcel of land per calendar year in residential zoning districts, and six events per parcel of land per calendar year in all zoning districts, except residential. These limitations shall not apply to the following City-owned parks. All activities shall be regulated ~~so as~~ to avoid incompatibility between such uses and surrounding areas.

17.68.020 Application filing.

Application for a temporary use permit shall be filed according to Sections 17.04.110 through 17.04.150.

17.68.030 Application submittal requirements.

Application for temporary use permit shall include the following:

- A. Uniform application, signed by both applicant and landowner;
- B. Filing fee;
- C. Site plan (~~three copies~~) including the dimensions of the lot, location of all temporary structures, access onto the site, and parking areas;
- D. A written description detailing the type and nature of the temporary use requested and the dates and hours of operation of the temporary use. In addition, provide information

Revision Notes

Added per 4/14/22 ZORACES concurrence on accepting no limitation for the City's three parks and City Hall. Further allowance is provided below under allowed uses.

Copies no longer needed due to electronic filing..

PROPOSAL 1: MINOR REVISIONS TO ALLOW PUBLIC PARKS AND CITY HALL EVENTS, AND
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on how noise, garbage, sanitation, dust, etc.,
are going to be mitigated;

E. Agency approval sheet, signed by all
agencies;

F. Proof of liability insurance for the
subject property;

G. Indemnification/hold harmless
agreement;

H. Public notice property owner and
occupant mailing data labels; ~~provide three sets
of labels for properties~~ within a five hundred
(500) foot radius of the subject property.

*Minor clean up change to reflect that the
mailing data is provided in a digital format.*

17.68.040 Temporary uses requiring permit.

A temporary use permit may be issued by the
planning director for the following uses:

A. Real estate sales offices within approved
development projects;

B. Model homes and temporary tract sales
offices for a project opened to the public for the
first time;

C. Christmas tree and pumpkin sales lots;
however, a permit shall not be required when
such sales are in conjunction with an
established commercial business holding a valid
city business license, provided such activity
shall be permitted for a period not to exceed
thirty consecutive calendar days;

D. Circuses and carnivals;

E. Special events related to an existing
business with temporary outdoor display/sales
of merchandise in any commercial zone,
provided there shall be no more than four
displays/sales in any calendar year, and not
more than two consecutive days, and that the
displayed merchandise is customarily sold on

PROPOSAL 1: MINOR REVISIONS TO ALLOW PUBLIC PARKS AND CITY HALL EVENTS, AND
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the premises, and that such premises are utilized for a permanently established business;

F. Indoor and outdoor entertainment and assembly events including but not limited to weddings, fund-raisers, retreats, fairs, festivals and concerts, when not held within premises designed to accommodate such events, such as: auditoriums, stadiums or other public assembly facilities, or private clubhouse facilities not associated with public cultural or recreational facilities;

Per 4/14/22 ZORACES discussion about other (non-City) facilities designed to accommodate certain indoor and outdoor uses, note that current City code already exempts certain types of uses from a temporary use permit. For example, indoor and outdoor entertainment and assembly events "held within facilities designed to accommodate such events..." would not require a temporary use permit and as such, would not be subject to the annual event limitation. No amendments are proposed since is subject to implementation by staff under current practices.

G. Art, cultural, and educational exhibits and displays; however, notwithstanding other permits or approvals that may be required, a temporary use permit shall not be required when the events are located at City-owned parks or City Hall so long as the number of anticipated daily attendees does not exceed 100 and an admission fee is not charged to enter the event.

Per 4/14/22 ZORACES concurrence that these types of events are exempt from a temporary use permit so long as they are conducted in City parks or at City Hall (because these facilities were designed to accommodate such uses), are relatively small in size (100 attendees), and relatively small in impact (limit to events that would not charge admission).

Note that as proposed, while a temporary use permit would not be required for these minor events, there may be other permits required including a City park event permit or other City approval, and other approvals as necessary from LA County Fire, Sheriff and/or Environmental Health.

H. Swap meets for no more than two consecutive days;

I. Off-site contractors' construction yards;

J. Outdoor sporting events;

K. Similar temporary uses which, in the opinion of the director, are compatible with the zone and surrounding land uses;

PROPOSAL 1: MINOR REVISIONS TO ALLOW PUBLIC PARKS AND CITY HALL EVENTS, AND
LIMITED EXEMPTION FOR ARTS/CULTURAL/EDUCATIONAL EVENTS

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L. Off-site surface parking on a vacant commercially zoned lot for the farmers market within 350 feet of the farmers market to replace required parking displaced by construction. The dates for this use shall not count against the maximum sixty (60) calendar days within one calendar year for which a site can be used for temporary uses. This provision shall expire the earlier of the issuance of a certificate of occupancy for Santa Monica College or on January 1, 2022.

17.68.050 Required permits and public notice.

A temporary use permit approved by the planning director shall be required for all uses listed in this chapter, and shall be issued prior to commencement of the use. A public hearing shall not be required for the issuance of a temporary use permit; however, a five-day public notice of the proposed event shall be provided as follows:

A. Application for temporary use permit shall be filed with the planning department thirty-five (35) days prior to the proposed use.

B. A notice shall be mailed, ~~postage pre-paid~~, to any organization or homeowners associations that requests such notice in writing and to all property owners and tenants within a five hundred (500) foot radius of the subject property, and in no event less than ten (10) developed properties.

C. The public notice shall state the nature of the request, location and zoning designation of the property, name of the project proponent, and the time and place of the proposed temporary use.

D. Public notices shall be mailed not less than thirty-two (32) days prior to the proposed event.

Minor clean up change to reflect that postage is included in the application fee. This is no longer needed.

PROPOSAL 1: MINOR REVISIONS TO ALLOW PUBLIC PARKS AND CITY HALL EVENTS, AND
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E. The planning director shall render a decision twenty-four (24) days prior to the proposed use.

17.68.060 Findings.

The director may approve a temporary use permit application; provided, that all of the following findings of fact are made:

- A. That the operation of the requested use at the location proposed and within the time period specified is compatible with the surrounding neighborhood uses;
- B. That the proposed site is adequate in size and shape to accommodate the temporary use;
- C. That the proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate;
- D. That adequate temporary parking to accommodate vehicular traffic to be generated by such use will be available either on-site or at alternate locations acceptable to the planning director;
- E. That the proposed use will not jeopardize the public peace, safety or general welfare, or be injurious or detrimental to properties adjacent to; or in the vicinity of, the proposed location of the activity;
- F. That the event shall not exceed a total of fourteen (14) consecutive calendar days and that the proposed site has not been used for temporary uses for more than sixty (60) calendar days within any one calendar year; and
- G. That no complaints have been filed against the current property owner with the Los Angeles County district attorney's office during the twenty-four (24) months preceding the date of application submittal.

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17.68.070 Conditions of approval.

In approving an application for a temporary use permit, the director may impose such conditions as are deemed necessary to insure that the permit will be in accord with the findings required by Section 17.68.060. These conditions may involve any pertinent factors affecting the operation of the temporary use, and may include but are not limited to the following:

- A. Provision of adequate temporary off-street parking facilities, including vehicular access and egress as defined by the planning director;
- B. Regulation of nuisance factors such as, but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gasses and heat;
- C. Regulation of temporary buildings, structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
- D. Provision of sanitary and medical facilities;
- E. Provision of solid waste collection and disposal;
- F. Provision of security and safety measures;
- G. Regulation of signs;
- H. Regulation of operating hours and days, including limitation of the duration of the temporary use to a shorter time period than that requested, and limiting the hours for event set-up, break-down, and clean-up;
- I. Submission of a performance bond or other surety devices to ensure that any temporary facilities or structures used for such proposed temporary use will be removed from

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the site within a reasonable time following the event and that the property will be restored to its former condition;

J. Submission of a site plan indicating any information required by this chapter;

K. Requirement that the approval of the temporary use permit is contingent upon compliance with applicable provisions of other ordinances;

L. Such other conditions which will ensure the operation of the proposed temporary use in an orderly and efficient manner and in accord with the intent and purpose of this chapter;

M. Applicants for special event permits shall:

1. Provide containers for recycling cans, glass, plastic and paper generated,

2. Provide information and guidance to assure recycling of materials listed above,

3. Comply with the city's solid waste recycling ordinance, and

4. Submit a plan indicating efforts to reduce, reuse or recycle waste generated;

N. The event shall not cause any noises, sounds or vibrations which are physically annoying to reasonable persons of ordinary sensitivity or which are so harsh or so prolonged or unnatural or unusual in their use, time or place as to occasion unnecessary discomfort to any persons within a five hundred (500) foot radius of the place from which such noises emanate or which interfere with the peace and comfort of residents, occupants or guests of the surrounding neighborhood, or the operators or customers in places of business in the vicinity;

O. The applicant shall demonstrate that the holding capacity of surrounding streets and

PROPOSAL 1: MINOR REVISIONS TO ALLOW PUBLIC PARKS AND CITY HALL EVENTS, AND
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intersections is sufficient to sustain the use without conflicting with established general plan goals and policies;

P. Submission of additional services bond for the purpose of protecting, assisting and regulating the proposed event. The cost of providing such additional services shall be paid in advance to the city by the applicant;

Q. The temporary use shall conform to city planning department, building and safety department, public works department, Los Angeles County fire prevention bureau, Los Angeles County sheriff's department, Los Angeles County mountain and rural sanitation department programs, regulations and requirements;

R. The applicant shall defend, indemnify, and hold harmless the city and its officers, agents, and employees from any claim, action or proceeding against the city or its officers, agents, or employees to attack, set aside, void, or annul approval of this permit;

S. The applicant shall furnish insurance in the amount to be determined by the planning director, but in no event less than one million dollars (\$1,000,000.00) to protect the city against claims of third persons for personal injury, wrongful death and property damage;

T. The applicant shall have a copy of the approved temporary use permit available on-site during the entire duration of the use.

17.68.080 Appeals and revocation.

A. The applicant may appeal the decision of the planning director to the planning commission within three calendar days of the decision date.

B. A temporary use permit may be revoked if the planning director finds that one or more of the following conditions exists:

PROPOSAL 1: MINOR REVISIONS TO ALLOW PUBLIC PARKS AND CITY HALL EVENTS, AND
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1. Circumstances have been changed by the applicant to such a degree that one or more of the findings of fact contained in Section 17.68.060 can no longer be made in a positive manner.

2. The temporary use permit was obtained in a fraudulent manner.

3. One or more conditions of the temporary use permit have not been fulfilled.

PROPOSAL 2: INCLUDES PROPOSAL 1 EDITS + CREATES MINOR/MAJOR PERMITS WITH
PLANNING COMMISSION REVIEW FOR “SERIES” AND OTHER CLEAN UP ITEMS

Changes are made using underline / ~~strikethrough~~.

17.68.010 Purpose.

A "temporary use" or "event" shall mean any activity or land use of a temporary nature that extends beyond what is expressly allowed by the applicable base zone in terms of use and development standards. The purpose of this Chapter is to establish a process to accommodate reasonable requests for approval of temporary uses for a limited period of time in locations where the proposed use may be desirable and appropriate due to the limited and short-term nature of the activity, and where the use would not otherwise be allowed within the applicable zone. The intent is to consider such requests on an individual basis to ensure that they will not be detrimental to the public health, safety, and general welfare; to surrounding properties; or to the community as a whole.

~~The temporary use permit is intended to allow for the short term placement of activities, many of which would be prohibited as permanent placements, in temporary facilities, public or private buildings or open spaces, or outside of buildings. Activities involving any commercial component such as: admission fee, renting of facility, charging for valet parking or shuttle service and/or public advertising shall require a temporary use permit. Temporary use permits shall be limited to four events per parcel of land per calendar year in residential zoning districts, and six events per parcel of land per calendar year in all zoning districts, except residential. All activities shall be regulated so as to avoid incompatibility between such uses and surrounding areas.~~

17.68.020 Application filing.

Application for a minor and major temporary use permit shall be filed according to Sections 17.04.110 through 17.04.150.

Revision Notes

Updates the Purpose statement of a temporary use to clarify what it is and how it operates to protect the community.

Relocates regulations (such as # of events allowed) from the Purpose statement to the Permit standards and Findings sections, which will help the public and decision makers understand the process and rules for these types of permits.

Proposes to separate permits into two groups: minor and major.

Minor permits operate under current practices (6 events per year for all zones except residential; no longer than 14 consecutive days with a max of 60 days/year, and director approval).

PROPOSAL 2: INCLUDES PROPOSAL 1 EDITS + CREATES MINOR/MAJOR PERMITS WITH
PLANNING COMMISSION REVIEW FOR “SERIES” AND OTHER CLEAN UP ITEMS

Changes are made using underline / ~~striketrough~~.

17.68.030 Application submittal requirements.

Application for temporary use permit shall include the following:

- A. Uniform application, signed by both applicant and landowner, including organization(s) and principals within the organization applying for the temporary use permit;
- B. Filing fee;
- C. Site plan (~~three copies~~) including the dimensions of the lot, location of all temporary structures, access onto the site, and parking areas;
- D. A written description detailing the type and nature of the temporary use requested and the dates and hours of operation of the temporary use, including if any alcohol or food service, live music or amplified sound planned for the event. In addition, provide information on how noise, garbage, sanitation, dust, traffic, parking, etc., are going to be mitigated;
- E. Agency approval sheet, signed by all agencies;
- F. Proof of liability insurance for the subject property;
- G. Indemnification/hold harmless agreement;

Major permits are new and would require Planning Commission approval to allow certain temporary uses so that the community can ensure events have enhanced public review and scrutiny to protect the community. These are more fully described below in the proposed ordinance.

Includes additional details to verify who the Applicant is (if an organization) and the principles involved.

Copies no longer needed due to electronic filing.

Per 4/14/22 ZORACES discussion, included some added provisions to verify if an event includes live music or amplified sound, alcohol or food service, and how traffic and parking will be managed as applicable.

PROPOSAL 2: INCLUDES PROPOSAL 1 EDITS + CREATES MINOR/MAJOR PERMITS WITH
PLANNING COMMISSION REVIEW FOR “SERIES” AND OTHER CLEAN UP ITEMS

Changes are made using underline / ~~striketrough~~.

H. Public notice property owner and occupant mailing data labels; ~~provide three sets of labels~~ for properties within a five hundred (500) foot radius of the subject property.

Minor clean up change to reflect that the mailing data is provided in a digital format.

I. Any additional information as may be required by the planning director to help evaluate the request for temporary use permit.

Added a catch-all to allow for additional information requests by staff as needed

17.68.040 Temporary uses requiring permit.

A. A temporary use permit shall not be required when events are located on the following City-owned parcels so long as the number of anticipated daily attendees does not exceed one hundred (100) and an admission fee is not charged.

B. Minor temporary use permits are limited to six (6) events per parcel of land per calendar year in all zoning districts, except residential which are subject to special event permit regulations per Chapter 5.34. Minor temporary use permits are limited to no more than fourteen (14) consecutive days per event and shall not exceed more than sixty (60) cumulative days of events per parcel per calendar year.

Clarified that minor TUPs are limited to 6 events per parcel per year for all zones except residential. Removed the 4 event reference in residential zones to clear up confusion by pointing the reader to the SEP section of Ch 5.34, which includes the max 4 events per year per parcel limitation (Sect 5.34.030)

C. A minor temporary use permit may be issued by the planning director for the following uses:

~~—— A. Real estate sales offices within approved development projects;~~

Per ZORACES 4/14/22 meeting, these uses should require Planning Commission review because of the length in time the temporary use would be operational. (relocated to major permit below)

~~B. Model homes and temporary tract sales offices for a project opened to the public for the first time;~~

Deleted; use not applicable

1G. Lots used for seasonal activities such as Christmas tree and pumpkin sales; however, a permit shall not be required when such sales are in conjunction with an established commercial business holding a valid city business license, provided however, such

Per ZORACES 4/14/22 discussion on other seasonal activities, such as gift wrapping events, clarified that these are “seasonal events” (and not just limited to Christmas trees and pumpkins). Further clarification added that these types of

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activity may extend beyond the fourteen (14) day maximum per Section 17.68.040.B but shall ~~shall be permitted for a period not to exceed be~~ limited to thirty (30) ~~thirty~~ consecutive calendar days;

~~D. Circuses and carnivals;~~

2E. Special events related to an existing business with temporary outdoor display/sales of merchandise in any commercial zone, ~~provided there shall be no more than four displays/sales in any calendar year, and not more than two consecutive days, and that~~ provided that the displayed merchandise is customarily sold on the premises and that such premises are utilized for a permanently established business;

3F. Indoor and outdoor entertainment and assembly events including but not limited to weddings, fund-raisers, retreats, fairs, festivals and concerts, when not held within premises designed to accommodate such events, such as: auditoriums, stadiums or other public assembly facilities, or private clubhouse facilities not associated with public cultural or recreational facilities;

4G. Art, cultural, and educational exhibits and displays; however, notwithstanding other permits or approvals that may be required, a temporary use permit shall not be required when the events are located at City-owned parks or City Hall so long as the number of anticipated daily attendees does not exceed one hundred (100) and an admission fee is not charged.

events require a minor TUP and may extend beyond the otherwise required 14-day limit, up to 30 days.

Relocated to major permit to ensure enhanced review by public and Planning Commission.

Clarified that these specific types of events are allowable via a minor TUP and would be subject to the 6 events per parcel per year. To go beyond 6 events would trigger a major TUP and added scrutiny by the Planning Commission (and Council on appeal)

Per 4/14/22 ZORACES discussion about other (non-City) facilities designed to accommodate certain indoor and outdoor uses, note that current City code already exempts certain types of uses from a temporary use permit. For example, indoor and outdoor entertainment and assembly events “held within facilities designed to accommodate such events...” would not require a temporary use permit and as such, would not be subject to the annual event limitation. No amendments are proposed since is subject to implementation under current practices.

Per 4/14/22 ZORACES concurrence that these types of events are exempt from a temporary use permit so long as they are conducted in City parks or at City Hall (because these facilities were designed to accommodate such uses), are relatively small in size (100 attendees), and relatively small in impact (limit to events that would not charge admission).

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5H. Swap meets for no more than two consecutive days;

~~1. Off-site contractors’ construction yards;~~

6J. Outdoor sporting events; and

7K. Similar temporary uses which, in the opinion of the director, are compatible with the zone and surrounding land uses;

~~L. Off-site surface parking on a vacant commercially zoned lot for the farmers market within 350 feet of the farmers market to replace required parking displaced by construction. The dates for this use shall not count against the maximum sixty (60) calendar days within one calendar year for which a site can be used for temporary uses. This provision shall expire the earlier of the issuance of a certificate of occupancy for Santa Monica College or on January 1, 2022.~~

C. A major temporary use permit may be issued by the planning commission for the following uses:

1. Real estate sales and rental offices associated with approved development projects;

2. On-site and/or off-site contractors’ construction yards associated with approved development projects;

Note that as proposed, while a temporary use permit would not be required for these minor events, there may be other permits required including a City park event permit or other City approval, and other approvals as necessary from LA County Fire, Sheriff and/or Environmental Health.

Relocated to major permit; these should be included in a project’s approval but if not, Planning Commission review is required.

Deleted; no longer applicable due to January 1, 2022 date.

Relocated from minor permit; added rental clarification.

Relocated from minor permit; modified to clarify it must be associated with an approved development project and can be on or off-site. As discussed in 4/14/22 ZORACES, goal is that these would be

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3. Circuses and carnivals;

4. Any event that will extend beyond fourteen (14) consecutive days, or beyond thirty (30) days for a seasonal activity event, such as events that operate as a series or other activities that demonstrate a need for greater duration;

5. Any additional event(s) on a parcel that has reached the maximum number of days per year of cumulative events (60 days) and/or the maximum number of minor temporary use permits per calendar year (six events per parcel in all zoning districts except residential; does not include City-owned parks or City Hall; and

6. Other temporary uses which, in the opinion of the director, required enhanced review by the public and planning commission to ensure that the events will not be detrimental to the public health, safety, and general welfare; to surrounding properties; or to the community as a whole.

17.68.050 Required permits and public notice.

A temporary use permit approved by the planning director or planning commission shall be required for all uses listed in this chapter, and shall be issued prior to commencement of the use.

A. A public hearing shall not be required for the issuance of a minor temporary use permit; however, an application shall be filed

included in the development approval, but just in case they were not, the Planning Commission would review these requests.

Relocated from minor permit to allow for enhanced public review.

Per 4/14/22 ZORACES discussion, any event that needs to go beyond 14 consecutive days, such as a “series” that utilizes various days beyond the 14-consecutive day requirement would be reviewed by the Planning Commission. This would apply to all events with exception to seasonal events such as Christmas tree and pumpkin sales which are allowed 30 days under a minor TUP.

Per 4/14/22 ZORACES discussion, provided a mechanism for property owners that have reached the annual maximums allowed by a minor temporary use permit to request any additional events beyond the limit in a calendar year. These requests would be reviewed by the Planning Commission.

Added a catch-all provision to allow staff to elevate temporary events to the Planning Commission as appropriate.

Five-day notice is inconsistent with current noticing requirements.

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and public notice of the proposed event shall be provided as follows:

1A. Application for minor temporary use permit shall be filed with the planning department ~~thirty-five (35)~~ forty-five (45) days prior to the proposed use.

2B. A notice shall be mailed, ~~postage pre-paid~~, to any organization or homeowners associations that requests such notice in writing and to all property owners and tenants within a five hundred (500) foot radius of the subject property, and in no event less than ten (10) developed properties.

3C. The public notice shall state the nature of the request, location and zoning designation of the property, name of the applicant, and the time and place of the proposed temporary use.

4D. Public notices shall be mailed not less than thirty-two (32) days prior to the proposed event.

5E. The planning director shall render a decision twenty-four (24) days prior to the proposed use.

B. A public hearing shall be required for a major temporary use permit and notice of such hearing given in a manner consistent with the requirements contained in Sections 17.04.160 through 17.04.230.

17.68.060 Findings.

A. The director may approve a minor temporary use permit application; provided, that all of the following findings of fact are made:

1A. That the operation of the requested use at the location proposed and

Increased to 45 days to allow two rounds of Dept reviews and time for responses prior to a decision being made. Feedback was shared that the current 35-day requirement can be difficult to achieve for some events.

Minor clean up change to reflect that postage is included in the application fee. This is no longer needed.

No other edits are proposed, but feedback was shared that the cost associated with the noticing requirement can be too expensive for some events organizers.

No edits are proposed, but similar to above, the minimum 32-day requirement can be difficult to achieve for some events.

Added notice requirements for major temporary use permits (mirrors City's conditional use permit chapter).

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within the time period specified is compatible with the surrounding neighborhood uses;

2B. That the proposed site is adequate in size and shape to accommodate the temporary use;

3G. That the proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate;

4D. That adequate temporary parking to accommodate vehicular traffic to be generated by such use will be available either on-site or at alternate locations acceptable to the planning director;

5E. That the proposed use will not jeopardize the public peace, safety or general welfare, or be injurious or detrimental to properties adjacent to; or in the vicinity of, the proposed location of the activity;

6. That no more than six (6) events in the calendar year have occurred on the parcel, with exception for the following City-owned parks and City Hall.

7F. That the duration of the event does not exceed a total of fourteen (14) consecutive calendar days, or thirty (30) days for a seasonal activity event, and that the proposed site has not been used for temporary uses for more than sixty (60) calendar days within any one (1) calendar year; and

8G. That no complaints have been filed against the current property owner with the Los Angeles County district attorney’s office during the twenty-four (24) months preceding the date of application submittal.

B. The planning commission may approve a major temporary use permit

Current temporary use permit regulations would be a finding for minor permits to ensure that implementation of the limitations is being followed.

Added findings for the Planning Commission to make on major temporary use permits.

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application provided that all of the following findings of fact are made:

1. That the operation of the requested use at the location proposed and within the time period specified is compatible with the surrounding neighborhood uses;

2. That the proposed site is adequate in size and shape to accommodate the temporary use;

3. That the proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate;

4. That adequate temporary parking to accommodate vehicular traffic to be generated by such use will be available either on-site or at alternate locations acceptable to the Planning Commission;

5. That the proposed use will not jeopardize the public peace, safety or general welfare, or be injurious or detrimental to properties adjacent to; or in the vicinity of, the proposed location of the activity;

6. That no complaints have been filed against the current property owner with the Los Angeles County district attorney’s office during the twenty-four (24) months preceding the date of application submittal.

17.68.070 Conditions of approval.

In approving an application for a minor or major temporary use permit, the director or planning commission may impose such conditions as are deemed necessary to ensure that the permit will be in accord with the findings required by Section 17.68.060. These conditions may involve any pertinent factors affecting the operation of the temporary use, and may include but are not limited to the following:

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- A. Provision of adequate temporary off-street parking facilities, including vehicular access and egress as defined by the planning director or planning commission;
- B. Regulation of nuisance factors such as, but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gasses and heat;
- C. Regulation of temporary buildings, structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
- D. Provision of sanitary and medical facilities;
- E. Provision of solid waste collection and disposal;
- F. Provision of security and safety measures;
- G. Regulation of signs;
- H. Regulation of operating hours and days, including limitation of the duration of the temporary use to a shorter time period than that requested, and limiting the hours for event set-up, break-down, and clean-up;
- I. Submission of a performance bond or other surety devices to ensure that any temporary facilities or structures used for such proposed temporary use will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition;
- J. Submission of a site plan indicating any information required by this chapter;
- K. Requirement that the approval of the temporary use permit is contingent upon

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compliance with applicable provisions of other ordinances;

L. Such other conditions which will ensure the operation of the proposed temporary use in an orderly and efficient manner and in accord with the intent and purpose of this chapter;

M. Applicants for ~~special event~~ temporary use permits shall:

1. Provide containers for recycling cans, glass, plastic and paper generated,
2. Provide information and guidance to assure recycling of materials listed above,
3. Comply with the city’s solid waste recycling ordinance, and
4. Submit a plan indicating efforts to reduce, reuse or recycle waste generated;

N. The event shall not cause any noises, sounds or vibrations which are physically annoying to reasonable persons of ordinary sensitivity or which are so harsh or so prolonged or unnatural or unusual in their use, time or place as to occasion unnecessary discomfort to any persons within a five hundred (500) foot radius of the place from which such noises emanate or which interfere with the peace and comfort of residents, occupants or guests of the surrounding neighborhood, or the operators or customers in places of business in the vicinity;

O. The applicant shall demonstrate that the holding capacity of surrounding streets and intersections is sufficient to sustain the use without conflicting with established general plan goals and policies;

P. Submission of additional services bond for the purpose of protecting, assisting and regulating the proposed event. The cost of

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providing such additional services shall be paid in advance to the city by the applicant;

Q. The temporary use shall conform to city planning department, building and safety department, public works department, Los Angeles County fire prevention bureau, Los Angeles County sheriff's department, Los Angeles County mountain and rural sanitation department programs, regulations and requirements;

R. The applicant shall defend, indemnify, and hold harmless the city and its officers, agents, and employees from any claim, action or proceeding against the city or its officers, agents, or employees to attack, set aside, void, or annul approval of this permit;

S. The applicant shall furnish insurance in the amount to be determined by the planning director, but in no event less than one million dollars (\$1,000,000.00) to protect the city against claims of third persons for personal injury, wrongful death and property damage;

T. The applicant shall have a copy of the approved temporary use permit available on-site during the entire duration of the use.

17.68.080 Appeals and revocation.

A. ~~The applicant may appeal the decision of the planning director to the planning commission within three calendar days of the decision date.~~ Decisions by the planning director or the planning commission may be appealed according to Section 17.04.220, except that:

1. For decisions made by the planning director, an appeal shall be filed with the city clerk within three (3) business days following the date of action for which an appeal is made and shall include written, specific grounds for the appeal. If the appellant does not submit grounds

Updated the appeals provision to coincide with Section 17.04.220 with exception of two timing provisions that would override the general appeal timeframes..

Due to limited timing associated with special events, added a specific provision to clarify the timing of an appeal for director-level decisions (minor TUPs). This provision would override the general appeal allowance of 10 days to file an

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for the appeal within three (3) business days, the city clerk shall return the filing fee and the appeal shall be deemed to have been withdrawn.

2. Not less than ten (10) calendar days before the date of a public hearing on the appeal, public notice shall be given consistent with the requirements of Section 17.04.180.

B. A temporary use permit may be revoked if the planning director or planning commission finds that one or more of the following conditions exists:

1. Circumstances have been changed by the applicant to such a degree that one or more of the findings of fact contained in Section 17.68.060 can no longer be made in a positive manner.

2. The temporary use permit was obtained in a fraudulent manner.

3. One or more conditions of the temporary use permit have not been fulfilled.

appeal, with an additional 10 days to submit written grounds of an appeal (20 days).

Due to limited timing associated with special events, added a specific provision to clarify the timing of a notice for public hearing on the appeal. This provision would override the general appeal allowance of 21 days of noticing.



Zoning Ordinance Revisions and Code Enforcement Subcommittee Agenda Report

Zoning Ordinance
Revisions & Code
Enforcement
Subcommittee
Special Meeting
11-10-22

Item 3.A.

To: Councilmember Pierson and Councilmember Uhring

Prepared by: Mary Linden, Executive Assistant

Approved by: Steve McClary, City Manager

Date prepared: November 3, 2022 Meeting date: November 10, 2022

Subject: Approval of Minutes – April 14, 2022

RECOMMENDED ACTION: Approve the minutes for the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) Special meeting of April 14, 2022.

DISCUSSION: This item was on the agenda for the ZORACES Special meeting on October 12, 2022, and the Subcommittee moved to approve the item. However, prior to the item being called, it was reported that a significant power outage had occurred in the Point Dume neighborhood affecting a number of households. As the meeting was being conducted virtually, some members of the public were unable to share their feedback with the Subcommittee. As a result, another Subcommittee meeting has been scheduled to re-hear this item to allow public comment, if any, before the Subcommittee votes again on approval of the minutes.

ATTACHMENT: Draft Minutes for the April 14, 2022 ZORACES Special meeting

MINUTES
ZONING ORDINANCE REVISIONS AND CODE ENFORCEMENT
SUBCOMMITTEE (ZORACES)
SPECIAL MEETING
APRIL 14, 2022
TELECONFERENCED – VARIOUS LOCATIONS
3:30 P.M.

CALL TO ORDER

Councilmember Pierson called the meeting to order at 3:30 p.m.

ROLL CALL

The following persons were recorded in attendance:

PRESENT: Councilmember Mikke Pierson and Councilmember Steve Uhring

ALSO PRESENT: Interim City Manager Steve McClary; Planning Director Richard Mollica; Senior Planner Jessica Thompson; and Administrative Assistant Rebecca Evans

APPROVAL OF AGENDA

MOTION Councilmember Uhring moved, and Councilmember Pierson seconded a motion to approve the agenda. The question was called, and the motion carried unanimously.

REPORT ON POSTING OF AGENDA

Administrative Assistant Evans reported that the agenda for the meeting was properly posted on April 11, 2022.

ITEM 1 PRESENTATIONS

None.

ITEM 2 OLD BUSINESS

None.

ITEM 3 NEW BUSINESS

- A. Approval of Minutes – August 6, 2020
Staff recommendation: Approve the minutes for the Zoning Ordinance Revisions and Code Enforcement Subcommittee Special meeting of August 6, 2020.

MOTION Councilmember Uhring moved, and Councilmember Pierson seconded a motion to approve the minutes for the Zoning Ordinance Revisions and Code Enforcement Subcommittee Special meeting of August 6, 2020. The question was called, and the motion carried unanimously.

B. Implementation of Land Use Policy 3.18 Addressing the Use of Rodenticides, Insecticides, and Herbicides

Staff Recommendation: Discuss whether a policy or an ordinance to the Local Coastal Program Local Implementation Plan should be prepared to implement Land Use Plan Policy 3.18.

Senior Planner Thompson presented the report.

Joel Schulman expressed concern that the community was confused because they still see poisons in use regularly. He urged the Subcommittee to adopt the staff recommendation and enact something meaningful that could be put into use as soon as possible, whether that be a policy or an ordinance.

Patt Healy expressed concern about how long an ordinance takes to implement. She suggested putting a policy in place first if the Subcommittee's recommendation would be for an ordinance. She stated the ordinance would not require California Coastal Commission (CCC) certification.

John Mazza noted that the CCC had already met extensively and approved the definition of Environmentally Sensitive Habitat Areas (ESHA) in terms of poisons. He stated he provided the citations to Interim City Manager McClary. He stated the CCC did not want to hear this again, and its position was that the City had oversight on its definitions for development. He stated a policy was the preferred method for a Coastal Development Permit (CDP). He stated staff determined that poisons outside of the home could impact ESHA.

Councilmember Uhring asked how the City could legally defend the position of banning outside use of rodenticides if challenged in court.

Planning Director Mollica explained that the basis of the draft policy would be to consider the use of these chemicals as development based on Land Use Policy 3.18 prohibiting development involving use of pesticides, herbicides or rodenticides. He stated if the City moved forward with a policy rather than an ordinance, approvals would be made on a Council-approved interpretation.

In response to Councilmember Uhring, Planning Director Mollica explained the City could argue that it is a form of development by saying that something is being placed on the ground and creating an impact on coastal resources.

Councilmember Uhring stated the City had the ability to define what development is right now. He expressed support for implementing a policy while possibly working on an ordinance for the long-term. He stated the City should obtain a legal opinion on grounds for defending against a challenge to the policy in court prior to the policy coming before the City Council. He expressed strong support for a policy at the earliest possible time.

Planning Director Mollica stated an aggressive timeframe for an ordinance would be 18 to 24 months while a policy could be started tomorrow. He stated the second reading would be likely in mid- to late-September.

Councilmember Uhring suggested having a law firm provide the City with its legal position should it be challenged.

Councilmember Pierson agreed that a policy was the best option. He stated bait boxes and poisons were an intensification of use that could damage ESHA.

MOTION Councilmember Pierson moved, and Councilmember Uhring seconded a motion to provide a recommendation that the City Council direct staff to prepare a policy to implement Land Use Plan Policy 3.18.

FRIENDLY AMENDMENT

Councilmember Uhring requested the motion be amended to add that the City's law firm provide the basis of how the City would defend any challenges and include that legal brief when this item is brought to the City Council.

The Friendly Amendment was accepted by the maker.

In response to Councilmember Uhring, Planning Director Mollica explained the City would respond to a complaint by verifying the violation, and then Code Enforcement would contact the property owner to remove it. He stated the property owner would pay a penalty to cover Code Enforcement costs. In response to Councilmember Uhring, he stated a CDP would never be issued to allow poison use on ESHA. He stated the policy, as written, did not allow any property owner to have the poisons on its property, and a CDP would only be to restore ESHA.

Interim City Manager McClary noted that if a property owner built something without a permit, the City would find them in violation and make them abate the construction.

Planning Director Mollica discussed a potential fine schedule for violations.

Councilmember Pierson suggested having the City Attorney advise on a plan for penalties for violations of the policy when this was presented to Council.

Planning Director Mollica stated staff would propose options and discuss with the City Attorney whether that would require a modification to Item 4 in the draft policy.

Councilmember Uhring agreed that penalties must be included with the policy. In response to Councilmember Uhring, Planning Director Mollica stated Council Policy No. 43 required the complainant be identified except for health and safety issues. In response to Councilmember Uhring, Planning Director Mollica stated this could be considered a safety issued as related to wildlife.

Councilmember Pierson suggested the City include an education and outreach component to include how to identify if bait traps were poisons or snap traps.

Councilmember Uhring asked if pesticide firms operating in Malibu would be required to obtain a permit.

Interim City Manager McClary stated the City could contact major providers of the new requirements.

The final motion was clarified to be to provide a recommendation that: 1) Staff prepare and the City Council adopt a policy to implement Land Use Plan Policy 3.18 regarding the use of rodenticides, insecticides, and herbicides; 2) the City's law firm provide the basis of how the City would defend any challenges and include that legal brief when the policy was brought to the City Council; 3) the City Council direct staff to create a plan for enforcement and penalties for violations of the policy.

The question was called, and the motion carried unanimously.

C. Zoning Text Amendment No. 21-005 Amending Malibu Municipal Code Chapter 17.68 (Temporary Use Permits)

Staff recommendation: Discuss potential amendments to the temporary use permit (TUP) process, event criteria, and provide feedback for staff to incorporate into a draft ordinance amendment.

Planning Director Mollica presented the report.

Barry Haldeman, a member of the Malibu Film Society Board of Directors, Malibu Arts Commission, and the Chamber of Commerce Arts Commission, noted the Malibu Film Society had operated in the City for thirteen years and offered about sixty screenings per year without any permits required. He stated the City provided grants for the first couple of years. He stated the City's position changed suddenly, which drove it out of Malibu. He requested the City interpret 1768.040(F) to allow

for holding events in appropriate locations without permits. He requested a special exemption in the code for the Malibu Film Society.

Daria Hodko, Chamber of Commerce Arts Committee Chair, agreed with Mr. Haldeman. She requested more opportunities for local artists to showcase their work. She stated she supported relaxing or waiving requirements for TUPs. She stated the Committee's and Malibu Film Society's mission were to bring more arts into Malibu and take advantage of local talent.

Scott Tallal, Malibu Film Society, expressed support for amending the code. He stated typical events had attendance of fewer than 100 people. He stated the code should include both public and private spaces. He discussed certain events that could not meet the 35-day advance noticing requirement. He stated the draft policy had failed to discuss events held in private spaces, such as churches or synagogues. He stated the vast majority were indoor events and were seldom held on consecutive days. He stated he was unaware of any complaints ever filed by the community about any Malibu Film Society event.

John Mazza, former member of the Arts Task Force and a member of the Malibu Arts Foundation, discussed recent car events with over 250 people in the Malibu Lumber Yard shopping center that were internationally advertised and held without permits. He stated they received only a slap on the hand. He stated many events that could be considered art would impact neighborhoods. He stated it needed to be controlled to define a public space. He stated most parks were residentially zoned. He stated neighbors should be notified of events that may impact them. He stated it must focus on impacts to residents, including traffic and parking.

Barbara Freund, Malibu Art Association, thanked the City and staff for their empathy and compassion. She stated the community was extremely supportive of the Art in the Park program. She discussed other groups that wanted to hold events in the City and would donate portions of their proceeds to local organizations or to the City for park maintenance. She expressed support for staff's recommendation to amend the TUP for non-profit organizations that benefitted the community. She discussed the burden on staff to process TUPs for simple, recurring events that did not involve food, tents, music or speakers.

Lotte Cherin, Malibu Arts Commission, requested the TUP be relaxed for the Commission since it was a City group and typically held events at City Hall with low attendance and low impact. She stated the Commission hoped for a waiver of fees and the 14-day notice requirement.

Eduardo del Signore stated he worked with artists on platforms of music, dance, poetry, and art. He stated supported any motion to expand arts in Malibu that would benefit the community. He discussed the loss of art and tradition in Uruguay. He

stated a country not invested in the arts was doomed to mediocrity. He announced a concert on April 23 at City Hall to benefit the Malibu High School orchestra and another event to benefit Ukraine on May 21 at Malibu United Methodist Church. He stated he supported the previous speakers.

Barbara Bruderlin, Chamber of Commerce, stated she would be happy to see changes to this process. She stated the Chamber supported the Malibu Film Society hosting its event at Malibu Pacific Church. She stated arts are suffering in Malibu because shopping centers are worried about using their six TUPs. She expressed support for allowing more art on the street and in the centers.

John Johannessen questioned why the Malibu Film Society was shut down so quickly. He stated the City should be more supportive of the arts community. He stated, on behalf of the Malibu Film Society, he appreciated anything that would allow showing movies in Malibu.

Councilmember Uhring expressed confusion about what the Subcommittee was asked to do. He stated nobody shut down the Malibu Film Society. He stated they were simply asked to follow the same rules as others. He stated a TUP allowed events at a location not built for that and protected the residents' quality of life. He asked if newer staff understood everything necessary to determine if an over the counter (OTC) permit should be issued. He questioned who determined what was an educational, art or cultural event. He expressed support for clearing a path for arts and cultural events at Legacy Park, City Hall and Bluffs Park. He stated he did not want to see an overhaul of the TUP rules and process without having it go back to the nearby residents to make sure they would not be impacted.

Councilmember Pierson agreed with Councilmember Uhring about small, non-impact events. In response to Councilmember Pierson, Planning Director Mollica confirmed that the City's public parks were limited to six events per year. He explained the TUP ordinance did not have an exemption for City-owned properties and Section G required a permit for art or cultural events, exhibits and displays. He stated the Malibu Municipal Code did not allow the City to exempt itself.

Councilmember Pierson suggested the City Council discuss promoting public spaces as the locations for these events. He stated he had no issue with art events every week in public spaces. He expressed support for allowing a series with a threshold, providing there was low or no impact. He stated the Malibu Film Society should be able to host events in any space built, permitted and designed for a certain number of people with sufficient parking. He stated events like the Music at Trancas should be encouraged. He stated not having more than six art events in a public park made no sense. He stated art events had lower impact than a series of weekly soccer games.

In response to Councilmember Pierson, Planning Director Mollica stated the Subcommittee was suggested to consider recommendations for events on consecutive dates and non-event temporary uses or structures. Councilmember Pierson stated extra space during construction, including parking, should go through the Planning Commission. Planning Director Mollica stated the Planning Commission could consider that rather than going through the TUP process. In response to Councilmember Pierson, Planning Director Mollica discussed multi-day events and non-consecutive events and whether they could be all under one permit. Councilmember Pierson stated those could be considered a series. He stated the City may have unintentionally abandoned its art community. Planning Director Mollica discussed Conditional Use Permits (CUP).

Councilmember Uhring stated there needed to be a clear understanding that he and Councilmember Pierson did not agree with one another on all facets of this topic. He expressed concern about opening it up to any type of event and potential negative impacts on nearby residents. He stated it was necessary to clearly define everything for staff.

Councilmember Pierson stated he agreed that a CUP would stand, particularly in its impact to neighbors. Councilmember Uhring questioned who would make the determination. He stated the City needed a clear definition of what was a low- or non-impact event. He stated there was no control over TUPs.

Councilmember Uhring stated he supported art events at City parks without a TUP. Councilmember Pierson stated he would support an OTC permit for those events.

Councilmember Pierson stated the TUP system was failing residents. Councilmember Uhring stated implementation and enforcement of the TUP system was what was failing the residents.

In response to Councilmember Pierson, Planning Director Mollica stated staff presented a TUP mechanism for people who wanted approval on a series. He suggested further discussion on what threshold would require a public hearing.

Interim City Manager McClary stated he understood Councilmember Uhring's concern about enforcement. He stated staff did respond to complaints and had issued citations this year when there was evidence of violations or events held without TUPs.

CONSENSUS

By consensus, the Subcommittee agreed to recommend that the City Council look at different rules for permitting art events at public places, such as events at Legacy Park, City Hall, Bluffs Park, or Trancas summer concerts.

Councilmember Pierson stated the City needed to address the art community's concerns and frustration. Councilmember Uhring stated there was a path for that through the TUP process.

Planning Director Mollica stated staff could bring back a proposal for series of events that would exceed six times per year. He suggested it might require going to the Planning Commission for a public hearing. Councilmember Pierson stated it still required determination of the impact.

Planning Director Mollica suggested construction yard issues should be part of the Planning Commission approval process. Councilmember Uhring and Councilmember Pierson agreed.

Planning Director Mollica stated staff would draft a policy for presentation to the Planning Commission for recommendations. He stated a Zoning Text Amendment (ZTA) would be brought to the City Council.

CONSENSUS

By consensus, the Subcommittee requested the draft policy be brought back to ZORACES prior to going to the Planning Commission.

In response to Councilmember Pierson, Planning Director Mollica stated a TUP for the Malibu Film Society required a 32-day public notice and would be limited to six events per parcel per year. In response to Councilmember Pierson, Planning Director Mollica confirmed a film series for 10 straight nights would be allowed.

In response to Interim City Manager McClary, Planning Director Mollica confirmed the series could be held at a facility with a CUP in place allowing that type of event.

ADJOURNMENT

MOTION At 5:23 p.m., Councilmember Uhring moved, and Councilmember Pierson seconded a motion to adjourn the meeting. The question was called, and the motion carried unanimously.

Approved and adopted by the Zoning Ordinance Revisions and
Code Enforcement Subcommittee of the City of Malibu on

_____.

MIKKE PIERSON, Councilmember

ATTEST:

MARY LINDEN, Executive Assistant