

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 17-83

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE PROPOSED ORDINANCE IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND RECOMMENDING THAT THE CITY COUNCIL ADOPT ZONING TEXT AMENDMENT NO. 17-002 AMENDING TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE RELATING TO THE SHORT TERM RENTAL OF RESIDENTIAL PROPERTY

The Planning Commission of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. While the City of Malibu allows residential property to be rented on a short term basis for periods of 30 days or less, it has prohibited this practice in multifamily residential buildings where such use constitutes illegal hotel, motel or bed and breakfast inn use.

B. With the recent proliferation of short term rental use due to the growth of internet portals that consolidate and facilitate the short term rental of property, the City has seen increased violations of its prohibition against illegal hotel and motel use and an increase in short term rental activity in the City. Owners of apartment complexes and other multifamily buildings have sought to convert their units to short term rental use and created illegal hotel and motel uses in the City.

C. The removal of these multifamily units from the City's housing stock affects some of the most affordable housing options in the City and conflicts with the City's zoning and General Plan.

D. Code enforcement efforts to enforce the Malibu Municipal Code (MMC) have been resisted and challenged by operators. Clarification of the City's prohibition against these types of activities is needed. Additional regulation of short term rental activity to limit the impact of short term rentals on neighbors and the community, given their increased proliferation, could also benefit the City.

E. On October 10, 2016, the City Council directed staff to research short term rental of property and bring back an ordinance.

F. On May 23, 2017, the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City Council reviewed a draft ordinance and provided comments to staff.

G. On October 26, 2017, a one-quarter page Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu. Display ads were also published in local newspapers. A public hearing notice was also mailed to all interested parties, regional, state and federal agencies affected by the amendment, local libraries and media, the California Coastal Commission, and all parties registered with the City for payment of transient occupancy tax.

H. On November 20, 2017, the Planning Commission held a duly noticed public hearing on Zoning Text Amendment (ZTA) No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

SECTION 2. Environmental Review.

The Planning Commission has analyzed the proposed project in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The Planning Commission hereby finds that under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

SECTION 3. Zoning Text Amendment Findings.

The Planning Commission hereby finds that ZTA No. 17-002 is consistent with the General Plan and Local Coastal Program (LCP). The ordinance would support the objectives and policies of the General Plan intended to concentrate commercial uses in certain areas and prevent sprawl throughout the City [General Plan LU Objective 4.2], regulate hotel development to ensure development compatible with a rural residential community [General Plan LU Policy 4.4.3], and conserve affordable housing in the Coastal Zone [General Plan Housing Policy 1.4].

ZTA No. 17-002 will support these policies by clarifying the City's prohibition against illegal hotel, motel and bed and breakfast inn use and introducing regulations to reduce the impact of short term rentals on neighbors and the community.

The proposed ordinance does not authorize a use other than that already designated in the LCP and MMC as a permitted or conditionally permitted use in the zone. The proposed ordinance is consistent with the Coastal Act and the LCP because it protects, maintains and enhances the overall quality of the coastal zone environment. The proposed ordinance will not alter the utilization or conservation of coastal zone resources, impede public access to and along the coastal zone, or interfere with the priorities established for coastal-dependent or coastal-related development.

SECTION 4. Zoning Text Amendments.

The Planning Commission hereby recommends that Title 17 of the Malibu Municipal Code be amended as follows:

A. MMC Section 17.02.060 (Definitions) is hereby amended by adding the following definition, inserted in alphabetical order:

“Short term rental” of property shall mean the renting of residential property, a dwelling unit, or a portion thereof, for a period of thirty (30) consecutive days or less to a transient.

B. Chapter 17.55 (Short Term Rental of Property) of the MMC is hereby added to read as follows:

Section 17.55.010 Short Term Rentals Generally.

- A. Single-family dwellings or portions thereof, may be rented for a period of thirty (30) consecutive days or less subject to the following requirements:
1. The owner and operator of the rented property is registered with the City, timely pays all transient occupancy tax due, and is in compliance with Chapter 3.24 of the Malibu Municipal Code.
 2. The property provides onsite parking for all guests; offsite or on- street parking shall only be allowed pursuant to a special event permit. Properties that do not have onsite parking spaces are exempt from this requirement, but guests of such properties shall not park more than two vehicles on the street.
 3. The property shall not have any outstanding code enforcement violations, and any violations on the property shall have been cured for a period of six months prior to the date of any short term rental of the property.
 4. The property complies with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
 5. A manager with access to the dwelling unit, and authority to fix any problems or violations of this chapter, shall be available twenty-four (24) hours a day, seven days a week, at a phone number provided to both the City and any guest staying at the property. This number must accept voicemail messages. A phone call to this number from the City or a guest must be returned within one hour.
 6. Owner shall provide full access to the property, and documents related to compliance with this Chapter, during normal City Hall business hours or at any time the dwelling unit is rented immediately upon request by the City Manager or his/her designee for purposes of inspection or audit.
 7. Owner shall provide all guests with the Short Term Rental Code of Conduct, which shall be developed by the City Manager, and post the same on the inside of the main entrance door to the dwelling unit rented, or on the wall adjacent thereto.
 8. Owner shall provide the contact information for the manager identified in (5) above to all dwelling units within five hundred (500) feet of the parcel boundary.
 9. The maximum occupancy of a short term rental property shall be limited to two (2) people more than twice the number of bedrooms listed on City or County records up to a maximum of 14 people, unless a special event permit is obtained.
- B. Nothing in this chapter shall limit the ability of a property owner, Covenants, Conditions and Restrictions (CC&Rs), or homeowners association or similar association from prohibiting or further limiting the short term rental of property. Short term rental of property is prohibited in any common interest development or apartment complex where it is not allowed. Short term rental of property shall not be allowed where the property owner or landlord has not given express permission to allow it.
- C. No person shall offer, facilitate an offer, or allow short term rental of property in any location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.

17.55.020 Short Term Rentals in Multifamily Housing.

- A. Short term rental of property is prohibited in multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments):
 - 1. No person or entity shall offer, advertise, facilitate or make available for rent, or rent (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration a residential dwelling, a dwelling unit or a portion thereof for a period of thirty (30) consecutive days or less in such buildings.
 - 2. No person shall occupy a residential dwelling, a dwelling unit or a portion thereof for a period of (30) consecutive days or less pursuant to a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration in such buildings.
- B. Notwithstanding, Section 17.55.020(A), a dwelling unit owner may rent the owned dwelling unit in a multifamily residential building for a period of thirty (30) consecutive days or less when the owner (1) lives in the dwelling unit throughout the visitor's stay, and is present in the unit for at least eight (8) hours a day, and (2) complies with the requirements of 17.55.010. If contacted by City staff, the owner must appear within ninety minutes in person at the property.
- C. Nothing in this section shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

17.55.030 Enforcement, Violations and Penalties.

- A. In addition to the other penalties and remedies available to the City, violations of this Chapter shall be subject to the administrative citation provisions of Chapter 1.10, except that any violation of this Chapter shall be subject to a fine of \$1000 per day or violation.
- B. For any property that violates any provision of this chapter, no person or entity shall offer, advertise or make available for rent, or rent (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration a residential dwelling, a dwelling unit or a room in a dwelling unit at that property for a period of thirty (30) consecutive days or less, and (2) no person shall occupy a residential dwelling, a dwelling unit or a room in a dwelling for a period of (30) consecutive days or less pursuant to a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration. This prohibition shall extend for a period of six months from the date the City sends a notice of violation to the property owner listed on the most recent tax rolls and/or the address of the property. An additional six-month restriction period will be imposed and consecutively added for each subsequent violation.
- C. Any violation of this Chapter shall constitute a separate offense for each and every day the violation occurs or persists.

D. These penalties and remedies are cumulative and in addition to any other penalties and remedies available to the City.

SECTION 5. The Planning Commission shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 20th day of November 2017.

MIKKE PIERSON, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 17-83 was passed and adopted by the Planning Commission of the City of Malibu at the Special meeting held on the 20th day of November 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

KATHLEEN STECKO, Recording Secretary