City of Malibu

23825 Stuart Ranch Road · Malibu, CA 90265-4861
Phone (310) 456-2489 · Fax (310) 456-3356 · www.malibucity.org

December 7, 2020

Steve Hudson, Executive Director
California Coastal Commission
South Central Coast District Office
89 South California Street, Suite 200
Ventura, CA 93001

VIA PERSONAL DELIVERY

Re: City of Malibu Local Coastal Program Amendment No. 19-003 – Hosted Short-Term Rental Ordinance

Dear Mr. Hudson:

Attached is the City of Malibu's submittal of Local Coastal Program Amendment No. 19-003. The submittal package includes the following documents for each proposed amendment:

1. Proposed LCP Amendment
2. Summary of Proposed LCP Amendment
3. LCP Consistency Analysis
4. Environmental Review Statement
5. Administrative Record Index and Documents

For further information, please contact Richard Mollica, Acting Planning Director, at (310) 456-2489, ext. 346 or email at jkendall@malibucity.org.

Sincerely,

Patricia Salazar
Senior Administrative Analyst

Proposed Changes to the Local Coastal Program:

Local Coastal Program Amendment No. 19-003

These changes correspond with City Council Ordinance No. 472

Action: Adopted Resolution No. 20-51 amending LCP Land Use Plan (LUP) Chapter 5 to address short-term rental use in residential zones and found the action exempt from CEQA, and adopted Ordinance No. 472 determining Zoning Text Amendment No. 19-005 to be categorically exempt from the California Environmental Quality Act and amending the Local Coastal Program (Local Coastal Program Amendment No. 19-003) and Title 17 (Zoning) of the Malibu Municipal Code (Zoning Text Amendment No. 19-005) regulating the rental of residential units for 30 days or less (Short-term Rentals) including, but not limited to, requiring the presence of an onsite host during short-term rentals and other restrictions, and clarifying permitted uses related to short-term rental citywide, amending Chapter 15.44 pertaining to operating permits for onsite wastewater treatment systems.

Land Use Plan
Changes in ~~strikethrough~~/<u>underline</u>

A. Amend LUP Chapter 5 (New Development), Section C (Land Use Policies), Subsection 2 (Land Use Designations) to replace the land use designation descriptions below with the amended language to read as follows:

RURAL RESIDENTIAL (RR): The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. <u>Short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City</u>. The following maximum residential density standards shall apply:

RR1	One dwelling unit per acre
RR2	One dwelling unit per 2 acres
RR5	One dwelling unit per 5 acres
RR10	One dwelling units per 10 acres
RR20	One dwelling unit per 20 acres
RR40	One dwelling unit per 40 acres

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a

minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. Short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MOBILE HOME RESIDENTIAL (MHR): The MHR designation is intended to accommodate existing mobile home parks and associated facilities. Short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MULTI-FAMILY RESIDENTIAL (MF): The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted. Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

B. Amend LUP Policy 5.20 to read as follows:

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

C. Amend LUP Policy 2.34 to read as follows:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

Local Implementation Plan
Changes in ~~strikethrough~~/underline

D. LIP Chapter 2.1 "Definitions" is hereby amended by adding the following definitions, inserted in alphabetical order:

DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and

B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and

C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

E. LIP Chapter 3.3(Q)(2)(a) Planned Development (PD) Zone is amended to add subsection (v) to section (a):

v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

F. LIP Section 13.31 is added to LIP Chapter 13 (Coastal Development Permits) to read as follows:

13.31 Short-term Rental of Residential Property

A. No coastal development permit is required nor is the City required to maintain a record of coastal development permit exemption pursuant to LIP Section 13.4.10 for short-term rental of residential property as defined in Section 2.1 of this LIP provided that such use meets all of the following criteria:

1. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.
2. The short-term rental use is conducted in a dwelling unit that was lawfully stablished as described in LIP Section 13.3(F).
3. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

G. LIP Table B – Permitted Uses is amended by inserting the following new use category to the end of the Residential section of the table after the "Home Occupation" category, and by adding a new footnote 21:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Short-term rental	STR[21]	STR[21]	STR[21]	STR[21]	STR[21]	·	·	·	·	·	·	·	·	·	·	·

21. Single-family residence properties are limited to hosted short-term rental permits only; one dwelling unit in a duplex may be rented unhosted if the owner or designated operator lives onsite in the other dwelling unit during the rental

period; and for multifamily properties, a maximum of two dwelling units per parcel, or 40%, whichever is less, may be devoted to short-term rental use.

H. LIP Table B – Permitted Uses (Key to Table) is amended to include "STR" "Use requires valid short-term rental permit approved by the City"

Summary of Amendment to the Local Coastal Program:

Local Coastal Program Amendment No. 19-003 (Hosted Short-Term Rental Ordinance)

Action: Adopted Resolution No. 20-51 amending LCP Land Use Plan (LUP) Chapter 5 to address short-term rental use in residential zones and found the action exempt from CEQA, and adopted Ordinance No. 472 determining Zoning Text Amendment No. 19-005 to be categorically exempt from the California Environmental Quality Act and amending the Local Coastal Program (Local Coastal Program Amendment No. 19-003) and Title 17 (Zoning) of the Malibu Municipal Code (Zoning Text Amendment No. 19-005) regulating the rental of residential units for 30 days or less (Short-term Rentals) including, but not limited to, requiring the presence of an onsite host during short-term rentals and other restrictions, and clarifying permitted uses related to short-term rental citywide, amending Chapter 15.44 pertaining to operating permits for onsite wastewater treatment systems.

Brief Summary of LCP Amendment: The LCPA involves changes to the LCP LUP and LIP which memorialize that short-term rental use is allowed in residential zones pursuant to a valid short-term rental permit issued by the City. The amendments to the LIP detail the requirements for issuance of and operation under short-term rental permits. The permitting requirements will allow the City to better control nuisance issues and avoid the proliferation of short-term rental businesses in which corporations and other entities buy up residences to use solely for vacation rentals, while ensuring a variety of visitor-serving accommodations remain available.

Environmental Review

Local Coastal Program Amendment No. 19-003 (Hosted Short-Term Rental Ordinance)

In accordance with the California Environmental Quality Act (CEQA), the ordinance would be exempt from CEQA under the common sense exemption of Section 15061(b)(3) that states CEQA review is not required when there is no possibility that the ordinance may have a significant adverse effect on the environment. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters. Further, the Ordinance is exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines which states that permitting and licensing of existing private structures involving negligible or no expansion of existing or former use in that the proposed short-term rental permitting program will establish rules and regulations that do not expand existing residential uses. Additionally, the Ordinance is exempt pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) in that the regulatory program established will facilitate enforcement actions, such as permit revocation, for nuisance short-term rental properties. Finally, in accordance with the CEQA, Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This Ordinance is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect.

LCP Consistency Analysis

Local Coastal Program Amendment No. 19-003 (Hosted Short-Term Rental Ordinance)

Based on evidence in the whole record, the City Council hereby finds that the proposed LCPA No. 19-003 meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act as follows:

A. The amendment maintains standards to require that uses and development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will assure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

B. The amendment will be consistent with the following policies:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

No conversion or removal of lower cost opportunities for visitor-serving accommodations results from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which can be more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to be used for short-term rentals, which is currently prohibited.

2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

LCPA No. 19-003

Hosted Short-Term Rental Ordinance

CITY OF MALIBU
INDEX OF RECORDS
LCPA NO. 19-003
HOSTED SHORT-TERM ORDINANCE
December 7, 2020

DOC #	DATE	DOCUMENT
1	10/28/20	CITY COUNCIL - AGENDA
2	10/28/20	CITY COUNCIL - AGENDA REPORT - ITEM 5A
3	10/28/20	CITY COUNCIL - CORRESPONDENCE - ITEM 5A
4	10/28/20	CITY COUNCIL - STAFF PRESENTATION - ITEM 5A
5	10/28/20	CITY COUNCIL - MINUTES
6	12/03/19	CITY COUNCIL - AGENDA - AMENDED
7	12/03/19	CITY COUNCIL - AGENDA REPORT - ITEM 1A
8	12/03/19	CITY COUNCIL - CORRESPONDENCE - ITMA 1A
9	12/03/19	CITY COUNCIL - MINUTES
10	12/03/19	CITY COUNCIL - RESOLUTION NO. 19-53
11	04/06/20	PLANNING COMMISSION - AGENDA
12	04/06/20	PLANNING COMMISSION - AGENDA - AMENDED
13	04/06/20	PLANNING COMMISSION - AGENDA REPORT - ITEM 4C
14	04/06/20	PLANNING COMMISSION - MINUTES
15	07/29/20	PLANNING COMMISSION - SPECIAL AGENDA
16	07/29/20	PLANNING COMMISSION - AGENDA REPORT - ITEM 1A
17	07/29/20	PLANNING COMMISSION - CORRESPONDENCE - ITEM 1A
18	07/29/20	PLANNING COMMISSION - STAFF PRESENTATION - ITEM 1A
19	07/29/20	PLANNING COMMISSION - MINUTES
20	09/14/20	CITY COUNCIL - AGENDA
21	09/14/20	CITY COUNCIL - AGENDA REPORT - ITEM 4A
22	09/14/20	CITY COUNCIL - CORRESPONDENCE - ITEM 4A
23	09/14/20	CITY COUNCIL - STAFF PRESENTATION - ITEM 4A
24	09/14/20	CITY COUNCIL - MINUTES
25	11/05/20	CITY COUNCIL - AGENDA
26	11/05/20	CITY COUNCIL - AGENDA REPORT - ITEM 4A
27	11/05/20	CITY COUNCIL - CORRESPONDENCE - ITEM 4A
28	11/05/20	CITY COUNCIL - STAFF PRESENTATION - ITEM 4A
29	11/05/20	CITY COUNCIL - ACTIONS
30	11/05/20	CITY COUNCIL - RESOLUTION NO. 20-51
31	11/23/20	CITY COUNCIL - AGENDA
32	11/23/20	CITY COUNCIL - AGENDA - AMENDED
33	11/23/20	CITY COUNCIL - AGENDA - SECOND AMENDED
34	11/23/20	CITY COUNCIL - AGENDA REPORT - ITEM 3A1
35	11/23/20	CITY COUNCIL - CORRESPONDENCE
36	11/23/20	CITY COUNCIL - ACTIONS & ORDINANCE NO. 472
37	VARIOUS	LIST OF ORAL AND PUBLIC TESTIMONY

Malibu City Council
Adjourned Regular Meeting Agenda

Monday, October 28, 2019

4:00 P.M. ADJOURNED REGULAR CITY COUNCIL MEETING
City Hall – Council Chambers
23825 Stuart Ranch Road

Pursuant to Government Code Section 54953(b), Mayor Pro Tem Pierson will be attending the Council meeting via teleconferencing from:

Room	7013
Location	Baltimore Renaissance Harborplace Hotel
Street	202 E Pratt Street
City, State, Zip	Baltimore, MD 21202

This teleconference location is accessible to the public and will be open to the public for attendance at this meeting.

Four p.m. **Regular Session**
Public Hearings will begin at 4:00 p.m., or as soon thereafter as possible, but in no event later than 5:30 p.m.

Call to Order - Mayor

Roll Call - Recording Secretary

Pledge of Allegiance

Approval of Agenda

Report on Posting of Agenda - October 17, 2019

1. Ceremonial/Presentations

A. Staff Update on Disaster Response and Recovery

2. Written and Oral Communications from the Public

A. Communications from the Public concerning matters which are not on the agenda but for which the City Council has subject matter jurisdiction. City Council may not act on these matters except to refer the matters to staff or schedule the matters for a future agenda.

B. Commission / Committee / City Manager Updates

C. City Council Subcommittee reports / Mayor and Councilmember meeting attendance, reports and inquiries

3. Consent Calendar

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 451

Recommended Action: Conduct second reading, unless waived, and adopt Ordinance No. 451 determining the project is exempt from the California Environmental Quality Act and adding Chapter 9.40 to Title 9 of the Malibu Municipal Code prohibiting the installation or use of self-regenerating water softeners for properties connected to the Civic Center Water Treatment Facility; and amending Section 1.10.040 of Chapter 1.10 (Administrative Citations and Penalties) of Title 1 (General Provisions) of the Malibu Municipal Code to reflect that violations of Chapter 9.40 shall be subject to the City's administrative penalty provisions.

Staff Contact: City Clerk Glaser, 456-2489, ext. 228

2. Second Reading and Adoption of Ordinance No. 452

Recommended Action: Conduct second reading, unless waived, and adopt Ordinance No. 452 amending Chapter 8.12 of Title 8 of the Malibu Municipal Code to add provisions for "Very High Fire Hazard Severity Zones" and finding the same exempt from the California Environmental Quality Act.

Staff Contact: City Clerk Glaser, 456-2489, ext. 228

B. New Items

1. Waive Further Reading

Recommended Action: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

Staff Contact: City Attorney Hogin, 456-2489, ext. 228

2. Approve Warrants

Recommended Action: Allow and approve warrant demand numbers 58289-58440 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 647 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of $2,847,794.36. City of Malibu payroll check numbers 5052-5055 and ACH deposits were issued in the amount of $213,949.60.

Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

3. Approval of Minutes

   Recommended Action: Approve the minutes for the September 23, 2019 Malibu City Council Regular meeting.

   Staff Contact: City Clerk Glaser, 456-2489, ext. 228

4. Amendment to Professional Services Agreement with Kimley-Horn and Associates, Inc.

   Recommended Action: Authorize the City Manager to execute Amendment No. 1 to the Professional Services Agreement with Kimley-Horn and Associates, Inc. in the amount of $50,000 for additional engineering plan check services to provide Woolsey Fire Rebuild Public Works Services.

   Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

5. Initiate Amendments to Local Coastal Program and Malibu Municipal Code to Foster Fire-resistant Landscapes

   Recommended Action: 1) Adopt Resolution No. 19-47 initiating amendments to the Local Coastal Program and Title 17 (Zoning) of the Malibu Municipal Code to foster creation of more fire-resistant landscapes; and 2) Direct the Planning Commission to schedule a public hearing regarding the same.

   Staff Contact: Planning Director Blue, 456-2489, ext. 258

6. Professional Services Agreement with Jensen Hughes

   Recommended Action: Authorize the City Manager to execute a Professional Services Agreement with Jensen Hughes for consultation and creation of a Community Wildfire Protection Plan.

   Staff Contact: Fire Safety Liaison Vandermeulen, 456-2489, ext. 387

7. Portable Generators for Temporary Power to Traffic Signals on Pacific Coast Highway

   Recommended Action: Appropriate $25,000 from the General Fund Undesignated Reserve for the purchase of portable generators and equipment to supply temporary power to the traffic signals on Pacific Coast Highway.

   Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

4. Ordinances and Public Hearings

None.

5. Old Business

A. Short-Term Rentals

Recommended Action: 1) Receive financial analysis on the implications and potential impacts of a ban on short-term rentals; 2) Discuss potential options and procedures for banning short-term rentals; 3) Discuss whether an amendment to the Local Coastal Plan is necessary for a short-term rental ban; 4) Discuss approaches of other coastal cities that have legislated short-term rentals and associated litigation in those cities; and 5) Provide direction to staff on a short-term rental ordinance.

Staff Contact: Assistant to the City Manager Shavelson, 456-2489, ext. 254

6. New Business

None.

7. Council Items

A. Clean Power Alliance Default Selection (Councilmember Peak)

Recommended Action: At the request of Councilmember Peak, 1) Approve selection of the 100% Tier Option for Clean Power Alliance customers within the City; and 2) Direct staff to work with Clean Power Alliance staff on an implementation plan.

Staff Contact: City Manager Feldman, 456-24489, ext. 226

B. Full and Fair Funding of Public Schools (Mayor Farrer)

Recommended Action: At the request of Mayor Farrer, adopt Resolution No. 19-46 calling for full and fair funding of California schools and urging the State Legislature to fund California public schools at the national average or higher by the year 2020, and at a level that is equal to or above the average of the top 10 states nationally by 2025, and to maintain, at a minimum, this level of funding until otherwise decreed.

Staff Contact: City Manager Feldman, 456-2489, ext. 226

Adjournment

Future Meetings

Tuesday, November 12, 2019	6:30 p.m.	Regular City Council Meeting	City Hall Council Chambers
Monday, November 25, 2019	6:30 p.m.	Regular City Council Meeting	City Hall Council Chambers
Monday, December 9, 2019	6:30 p.m.	Regular City Council Meeting	City Hall Council Chambers

Guide to the City Council Proceedings

The Oral Communication portion of the agenda is for members of the public to present items, which are not listed on the agenda but are under the subject matter jurisdiction of the City Council. No action may be taken under, except to direct staff unless the Council, by a two-thirds vote, determines that there is a need to take immediate action and that need came to the attention of the City after the posting of the agenda. Although no action may be taken, the Council and staff will follow up, at an appropriate time, on those items needing response. Each speaker is limited to three (3) minutes. Time may be surrendered by deferring one (1) minute to another speaker, not to exceed a total of eight (8) minutes. The speaker wishing to defer time must be present when the item is heard. In order to be recognized and present an item, each speaker must complete and submit to the Recording Secretary a Request to Speak form prior to the beginning of the item being announced by the Mayor (forms are available outside the Council Chambers) and must be accompanied by all forms deferring time at the time of submission. Speakers are taken in the order slips are submitted.

Items in Consent Calendar Section A have already been considered by the Council at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Council. If discussion is desired, an item may be removed from the Consent Calendar for individual consideration. Councilmembers may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from the Consent Calendar will be taken up by the Council following the action on the Consent Calendar. The Council first will take up the items for which public speaker requests have been submitted. Public speakers shall follow the rules as set forth under Oral Communication.

For Public Hearings involving zoning matters the appellant and applicant will be given 15 minutes each to present their position to the City Council, including rebuttal time. All other testimony shall follow the rules as set forth under Oral Communication.

Old Business items have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Public comment shall follow the rules as set forth under Oral Communication.

Items in New Business are items, which are appearing for the first time for formal action. Public comment shall follow the rules as set forth under Oral Communication.

City Council Items are items, which individual members of the City Council may bring up for action, to propose future agenda items or to suggest future staff assignments. No new items will be taken-up after 10:30 p.m. without a two-thirds vote of the City Council.

City Council meetings are aired live and replayed on City of Malibu Government Access Channel 3 and on the City's website at www.malibucity.org/video. Copies of the staff reports or other written documentation relating to each item of business described above are on file in the office of the City Clerk, Malibu City Hall, 23825 Stuart Ranch Road, Malibu, California, and are available for public inspection during regular office hours, which are 7:30 a.m. to 5:30 p.m. Monday through Thursday and 7:30 a.m. to 4:30 p.m. Friday. Written materials distributed to the City Council within 72 hours of the City Council meeting are available for public inspection immediately upon distribution in the City Clerk's office at 23825 Stuart Ranch Road, Malibu, California (Government Code Section 54957.5.b.2). Copies of staff reports and written materials may be purchased for $0.10 per page. Pursuant to State law, this agenda was posted at least 72 hours prior to the meeting.

The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Yolanda Bundy, Environmental Sustainability Director, (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II]. Requests for use

of audio or video equipment during a Council meeting should be directed to Alex Montano at (310) 456-2489 ext. 227 or amontano@malibucity.org. Material must be submitted by 12:00 p.m. on the meeting day.

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. Regular and Adjourned Regular meeting agendas may be amended up to 72 hours in advance of the meeting. Dated this 17th day of October 2019, at 3:00 p.m.

Heather Glaser, City Clerk

Adjourned Meeting
10-28-19
Item 5.A.

Council Agenda Report

To: Mayor Farrer and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Approved by: Reva Feldman, City Manager

Date prepared: October 8, 2019 Meeting date: October 28, 2019

Subject: Short-Term Rentals

RECOMMENDED ACTION: 1) Receive financial analysis on the implications and potential impacts of a ban on short-term rentals; 2) Discuss potential options and procedures for banning short-term rentals; 3) Discuss whether an amendment to the Local Coastal Plan is necessary for a short-term rental ban; 4) Discuss approaches of other coastal cities that have legislated short-term rentals and associated litigation in those cities; and 5) Provide direction to staff on a short-term rental ordinance.

FISCAL IMPACT: In Fiscal Year 2017-2018, the City collected $2.42 million from transient occupancy tax of short-term residential rentals and in Fiscal Year 2018-2019, this revenue source generated $2.46 million. Per the Council's direction on September 26, 2018, a financial analysis has been conducted to determine the financial impacts from a ban on short-term residential rentals. The financial analysis demonstrates that a ban will have a financial impact on the City's General Fund over the next ten years with a loss of approximately $30 million.

WORK PLAN: This item was included as item 4D in the Adopted Work Plan for Fiscal Year 2019-2020.

DISCUSSION: On July 9, 2018, the Council held a public hearing on the regulation of short-term rentals. The agenda report (Attachment 1) summarized the Planning Commission's recommendation (including Planning Commission Resolution No. 18-26 as an attachment). The report also provided a draft ordinance prepared by staff based on previous direction from the Council, ZORACES and the Planning Commission proposing a short-term rental permit (STR) permit system. At the conclusion of its deliberations, the Council expressed consensus approving all but two of the 24 main points summarized in the agenda report regarding the proposed ordinance. Specifically,

the Council requested changes to the proposed parking regulations and the prohibition of short-term rentals in multifamily buildings. In addition, the Council requested that staff research and bring back options for establishing primary residence requirements, developing special exemptions from primary residence requirements, regulating rentals in condominiums, requiring Onsite Wastewater Treatment System (OWTS) operating permits for short-term rental properties, determining permit fees, processing permit applications, phasing in the permit system, and enforcement tools. The item was continued to September 26, 2018 with direction to staff to return with a revised ordinance.

On September 26, 2018, the Council was presented with a short-term rental ordinance (Attachment 2) that addressed all the concerns the Council raised and proposed to regulate short-term rentals in multifamily apartment buildings, set standards and requirements for the short-term rental of property to address the potential impacts of short-term rentals and preserve neighborhood character as directed by the Council on July 9, 2018.

The draft ordinance presented to the Council on September 26, 2018, proposed to create a STR permit system with three types of permits: primary resident, non-primary resident and multifamily with different permit requirements and permissions for each permit type that must be renewed annually. In general, the permit requirements and permissions proposed were stricter for non-primary resident permits and multifamily permits than primary residents to minimize impacts and preserve neighborhood character.

The following is a summary of the key points of the proposed ordinance and STR permit system:

- Limits individuals to one active STR permit
- Requires a 24/7 contact that can address STR issues
- Establishes maximum occupancy rates based on the number of bedrooms
- Establishes parking restrictions
- Requires a valid OWTS Permit for the property
- Establishes that permits may be denied or revoked if:
    - The property has received more than 2 citations for violation of the City's noise ordinance within a twelve-month period
    - The property has received more than 2 citations for violation of permit requirements within a twelve-month period
    - The property has outstanding code violations
    - The property doesn't comply with all applicable safety codes, laws or ordinances

- Requires that applicants provide proof to demonstrate primary residency and claim the property as a primary residence for at least 185 days per year

The ordinance also placed additional restrictions on non-primary residents and in multifamily properties including:

  - Non-primary resident permits would only allow the short-term rental of property between April 1 and September 30
  - Multifamily permits would allow a maximum of two units to be rented on a multifamily property but only if all other units are documented to be rented on a long-term basis
  - Non-primary resident permits and multifamily permits can be revoked or denied for 2 citations/violations instead of 3

Under this system, if a permit is denied or revoked, the short-term rental of property must cease immediately and shall not be permitted for 12 months. The short-term rental of property during this period would result in additional penalties.

In response to the City's proposed ordinance, the California Coastal Commission (CCC) staff wrote a letter to the City dated September 20, 2018, stating that the "Commission staff views the City's proposed amendment as a supportable effort to provide for some regulatory controls and management provisions for short term rentals" (Attachment 3).

After discussion of the proposed ordinance, the Council directed staff to bring back an item with an analysis of: 1) potential options and procedures for banning short-term rentals in the City; 2) the implications and potential impacts of a ban, including financial analysis; 3) approaches to using the Local Coastal Program Amendment (LCPA) process; and 4) the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

Background on Current STRs Regulations

Proponents of a STR ban have asserted that STRs are not a residential use and, per the City's zoning code, should not be allowed in residential neighborhoods. The issue of whether or not STRs are a permissible use in residential zones is open to interpretation. Zoning ordinances prohibit all uses that are not listed. Since short-term vacation rentals are a more recent phenomenon that have taken root because of the internet-fueled "shared economy," that specific use is not listed in most older zoning ordinances, including the City of Malibu. Thus, the issue becomes whether that use is reasonably like a single-family home (because people use it for the same general purposes as permanent or long-term renters) or whether it is a whole new use (because it is transient and not residential in character). In Malibu, single family homes can be rented whether it is for a year, a month, or a weekend. The length of the rental is not regulated. The

length of the rental of a single-family residential property does not change the essential character of the "use" as the "rental of property."

Starting in Fiscal Year 2008-2009, at the recommendation of the Administration and Finance Subcommittee, the City of Malibu began to enforce the transient occupancy tax (TOT) on the short-term rental of residential property. The City established a TOT registration fee as part of the adopted fee schedule and implemented a STR TOT registration program. Over the last decade, the City has collected TOT on STRs. In 2015, the City entered into an agreement with Airbnb and the company began collecting and remitting TOT for the properties in Malibu that are rented through its website. Ultimately, it is the responsibility of the Council to interpret zoning ordinances, and cities across California continue to interpret zoning codes differently.

The City could change its land use policy and distinguish between a "residential" use and a "transient" use based on the length of the tenancy. Transiency has a different effect on a neighborhood and, like other defined uses, may be regulated (or banned) in order to protect the characteristics of a residential neighborhood that promotes relative permanency and long-term social investment.

1. Financial Analysis

On November 8, 2019, shortly after Council provided direction on STRs, the Woolsey Fire broke out destroying more than 480 residential structures in Malibu. To better understand the short- and long-term financial implications of a potential ban on STRs, as well as the financial impacts of the Woolsey Fire, staff issued a request for proposals for financial analysis services in March 2019. On June 24, 2019, the City entered into a Professional Services Agreement with Raftelis Financial Consultants for financial analysis services.

Raftelis Financial Consultants (Raftelis) conducted a thorough analysis of the City's finances and developed a financial model. The model enables the City to create a ten-year forecast that reflects the financial impacts from a ban on short-term rentals and the financial impacts of the Woolsey Fire and associated rebuilding efforts, including unreimbursed expenses from past and potential winter rain events.

The customized financial model uses historical and current financial data to allow the City to analyze various financial scenarios. The model can be updated as needed as financial information changes and will be a valuable tool for the Council to evaluate financial and policy decisions moving forward. Raftelis input thousands of line items of revenue and expenses from the City's past and current budgets as the basis of their financial model including taking into account the City's General Fund Undesignated Reserve Policy (Attachment 4).

On October 3, 2019, the Administration and Finance (A&F) Subcommittee received a presentation from Raftelis that summarized the results of the financial modeling. The summary highlighted the financial strain the City is under after the Woolsey Fire, the subsequent storms, the waiving of fees and the addition of contract personnel to assist in the rebuilding efforts. The presentation also included the financial impact of a full ban of STRs, as well as what the financial impact would be with a 50 percent loss of STR revenue.

The analysis conducted by Raftelis highlighted the City's need to maintain a sizable General Fund undesignated reserve. The City has been committed to maintaining a substantial reserve to ensure financial sustainability and governmental continuity in a vulnerable and disaster-prone area as Malibu and has established a very conservative General Fund Undesignated Reserve Policy. The policy establishes that the City maintain a minimum General Fund Undesignated Reserve of 50 percent of the City's operating budget and, more recently, the Council set a goal of maintaining a 65 percent reserve. Both the City's reserve policy and goal far exceed the reserve levels of most municipalities.

By strictly adhering to the City's General Fund Undesignated Reserve Policy and achieving its reserve goal, the City was in a strong financial position at the beginning of Fiscal Year 2018-2019. On July 26, 2018, S&P Global Ratings assigned the City of Malibu an "AA+" rating and affirmed its "AA+" long-term rating and its "AAA" issuer credit rating (ICR) on the City. Years of conservative financial planning and Malibu's resulting fiscal strength has enabled the City to withstand the immediate financial impact of the 2018 Woolsey Fire.

However, the financial impact of the Woolsey Fire, the subsequent winter storms and the rebuilding process, including the waiving of fees for all rebuilding services and the addition of contract personnel to assist the community with rebuilding, have weakened the City's fiscal position. Looking ahead, this situation is made worse by a combination of an increase in debt service from the 2018 purchase of vacant land and the expected increase to City's contract with Los Angeles Sheriff's Department in Fiscal Year 2023. Taking into account the loss of revenue from a complete short-term rental ban or a 50 percent ban, further exacerbates the City's weakened financial position.

The A&F Subcommittee requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial ban or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

Raftelis will be at the meeting to provide the Council with a revised presentation of the financial analysis derived from the financial model they developed for the City and answer questions. A draft copy of the presentation is included as Attachment 5.

Staff evaluated the City's current expenditures and identified the following short-term and long-term measures that could serve to reduce expenditures as well as some potential revenue generating measures. A combination of these efforts could offset the loss of revenue of a potential short-term rental ban estimated to be up to $2.46 million in Fiscal Year 2020-2021 and escalated based on the Consumer Price Index. Additional measures will be needed to address anticipated increases in debt service and public safety costs.

Potential Short-Term Expenditure Reductions:

- Limit General Fund Capital Improvement Projects (CIPs)
- Reduce fire rebuild consultant expenses which will impact review and approval times for rebuilds (estimated at $3.75 million between FY 2020-2021 and FY 2022-2023)
- Limit rebuild fees waivers to Fiscal Year 2019-2020
- Reduce debt service by selling vacant land
- Limit non-essential staff positions
- Limit homelessness services
- Reduce non-essential City programs and services

Potential Long-Term Expenditure Reductions:

- Limit non-essential General Fund CIPs identified in the 5-Year CIP Plan for 2019-2024 (estimated at $2.5 million over the next 5 years)
- Reduce public safety expenses

Potential Revenue Increases (based on Fiscal Year 2019-2020 Adopted Budget and subject to fluctuation):

- Increase TOT for hotels and motels (currently 12%) - requires a vote of the people (Attachment 6)
    - 3 percent increase to 15% is estimated to generate an additional $290,000 annually
    - 4 percent increase to 16% is estimated to generate an additional $380,000 annually
- Increase Sales Tax (currently 9%) – requires a vote of the people
    - 1/2 percent increase to 9 ½% is estimated to generate approximately an additional $200,000 annually
- Install parking meters along select City streets

Upon direction from the Council on solutions to increase revenue or decrease expenses, staff can develop different financial scenarios using the model developed by Raftelis.

2. Options and Procedures for Regulating and Banning Short-Term Rentals

It is established that California cities may regulate short-term rentals (STRs) through their constitutional zoning authority.[1]

A number of cities ban or limit STR activity within residential zones. For example, San Francisco only allows "permanent residents" (persons who spend at least 275 nights a year in a residential unit) to rent the units as STRs, subject to business registration and tax requirements. The City of Santa Monica only allows STRs that take the form of "home-sharing" (hosted rentals where residents remain on-site with guests) also subject to registration and payment of TOTs.

It is important to note that for cities such as Malibu that have historically taken steps that may be considered to legitimize STRs, such as the collection of TOT, the establishment of a TOT registration program, and agreements with various online STR platforms, it may be more difficult to enact a ban.

If the City were to enact a ban, the City would need to draft an ordinance banning STRs and establish a date by which all STRs must cease (allowing a reasonable amortization period), conduct required public hearings, adopt an ordinance banning STRs, provide notice to STR operators, hire additional code enforcement personnel to help enforce the STR ban and develop a STR ban monitoring program with the City's STR monitoring consultant, Host Compliance. Due to the nature of vacation rental bookings, staff recommends that the effective date of the ordinance be a minimum of six months from the date of adoption.

In addition, in order to enact a full STR ban, the City would also need to amend its Local Coastal Program (LCP) as explained below.

3. California Coastal Commission and Local Coastal Plan Amendment Process

Depending on the ordinance proposed, the City's STR regulations may require an LCP amendment. Generally speaking, whenever the uses of property are changed, an LCP amendment would be required. CCC staff continues to assert that a LCPA is required for regulations limiting or banning STRs. In fact, in the letter to the City dated September 20, 2018, CCC staff expresses support for the City's then-proposed ordinance regulating STRs, but also asserts that "we believe that vacation rental regulations in the coastal zone must occur within the context of the City's LCP. We encourage the City to submit an LCP amendment to the Commission." CCC staff has expressed the view that prohibiting or limiting the operation of STRs in the coastal zone represents a change of use that triggers the need for an LCP amendment. In a letter dated December 6, 2016, the Commission stated that it has "not historically supported blanket vacation rental

[1] See *Ewing v. City of Carmel-By-The-Sea* (1991) 234 Cal.App.3d 1579, 1590.

bans under the Coastal Act, and it has found such programs in the past not to be consistent with the Coastal Act" (Attachment 7).

While the City Attorney advises that an LCPA is not necessary for the City to enact certain ordinances regulating the administration of the TOT required for STRs, the City Attorney also advises that an LCPA will be necessary in order for the City to enact a full ban of STRs, or certain ordinances that significantly regulate or change current STR use.

Therefore, if the Council decides to pursue a full STR ban, it would also need to direct staff to bring back a draft resolution to initiate an LCPA. After the Council adopts the initiation resolution, staff would draft an LCPA. The Draft LCPA would be presented to the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) (unless directed otherwise) and the Planning Commission before being presented to the Council for approval. These hearings would be consolidated with the hearing on the ordinance amending the Malibu Municipal Code. If approved by the Council, the Draft LCPA would be submitted to the CCC for certification.

4. Status of Current Litigation in Coastal Cities

The impact of STRs in coastal areas is still being debated, and no appellate court has yet determined whether a city's STR regulations constitutes a development within the meaning of the Coastal Act.

While the CCC has approved LCPAs that allow STRs (and has stated that bans or heavy regulation of STRs would not be approved), the threshold question of whether an LCPA is required for a coastal city to regulate STRs is the subject of pending action in California courts.

In *Greenfield v. Mandalay Shores Community Association*, the Court of Appeal invalidated a homeowners association's ban on STRs holding that "STRs may not be regulated by private actors where it affects the intensity of use or access to single family residences in a coastal zone." The court found that such regulation was a policy matter for the city and the CCC. In the pending cases, the courts address circumstances where the local government and the CCC may not agree on what the local policy should be.

The City of Del Mar is currently in litigation with the CCC over these issues. In 2017, Del Mar adopted a zoning ordinance allowing STRs in certain residential zones subject to a minimum stay of seven nights and a maximum STR use of twenty-eight days per calendar year. Like Malibu, Del Mar has a certified LCP. Del Mar submitted an LCPA to the CCC mirroring the zoning ordinance it adopted. The CCC rejected Del Mar's LCPA, suggesting that certification would depend on modification of policy to allow STRs in residential zones in the coastal zone at a much higher intensity than Del Mar

had proposed (the CCC required an STR use with a three-night minimum stay for a maximum of 100 nights per year).

Del Mar sued the CCC asserting that such policymaking was outside of its legal jurisdiction. Del Mar also claims that the CCC requirements are arbitrary, and it has offered no evidence that the Coastal Act requires more intense STR use. Del Mar argues that the Coastal Act does not equate public access with overnight accommodations, and Del Mar already offers extensive overnight accommodations throughout the city. The court has yet to hear the matter, which the City Attorney's office continues to monitor.

The City of Santa Barbara is also challenging the status of STR regulations under the Coastal Act in a case against a resident-STR operator. In *Theodore P. Kracke v. City of Santa Barbara*, a resident sued the city for implementing a policy to remove large numbers of STRs from the city's coastal areas without obtaining a Coastal Development Permit (CDP) or an LCPA.

Santa Barbara treats STRs as hotels for purposes of its zoning ordinance, which broadly defines a hotel as any building occupied as temporary accommodations for less than thirty (30) consecutive days. Prior to 2015, however, Santa Barbara had an informal policy of generally allowing STRs throughout the city provided that: (1) the owner obtained a local business license and remitted TOT payments; and (2) neighbors did not complain. In the summer of 2015, the Santa Barbara City Council directed staff to regulate STRs as defined by local law and allocated funding (approximately $180,000) to enable effective enforcement actions against unlawful operators. Unlike Del Mar, Santa Barbara did not amend its zoning ordinance; rather, it adopted policy direction to aggressively identify and prosecute operators under its existing zoning laws, regulating STRs as hotels, which are prohibited in Santa Barbara's residential zones and subject to numerous permitting requirements in commercial zones.

In litigation, Santa Barbara argued that it had not taken action that would implicate CDP or LCP requirements under the Coastal Act. The trial court disagreed. On March 8, 2019, the court issued a decision finding that: (1) an official change in enforcement policy (sanctioned by the Council) was equivalent to adopting an ordinance or a resolution for purposes of coastal "development;" and (2) even in the absence of evidence (the parties presented conflicting expert testimony), "it is clear that the availability of [STRs] affects the public's use of and access to the coastline."

Santa Barbara was thus ordered to regulate STRs as it did before the 2015 enforcement policy went into effect, until such time as Santa Barbara obtains a CDP or an LCPA. Santa Barbara has appealed the trial court's judgment, which may result in a binding appellate decision on the status of STR ordinances under the Coastal Act.

The City Attorney's office continues to monitor these issues.

Litigation and Enforcement Issues Cities Face When Regulating STRs

The challenge for most cities has been enforcement. As a result, most of the recent litigation over STR ordinances concerns the limits of local enforcement measures, particularly the limits on government regulation of the online platforms facilitating rentals.

Platform Liability

To better enforce local regulations, San Francisco and Santa Monica adopted ordinances that imposed legal liability on platforms for publishing listings of potentially illegal rentals. These ordinances held platforms criminally and civilly liable for facilitating (including advertising) any unauthorized rental activity. The platforms sued under the federal Communications Decency Act (CDA). The CDA provides that an online service provider may not be treated as "the publisher" of information furnished by a third-party content provider and immunizes platforms from liability under any inconsistent state or local law.

In response, San Francisco and Santa Monica amended their ordinances. For example, Santa Monica's amended ordinance provides that platforms may not complete "booking transactions" for unlicensed STRs, but no longer imposes liability on platforms for publishing advertisements. The platforms again sued, and on March 13, 2019, the Ninth Circuit Court of Appeal upheld Santa Monica's amended ordinance. In *HomeAway.com, Inc. v. City of Santa Monica*, the court found that Santa Monica's STR regulations did not require companies to monitor or edit the content of any listings provided by hosts and thus did not regulate "publication" activities within the meaning of the CDA.

Ordinances that require platforms to disclose transaction information about rentals for code enforcement purposes have also faced legal challenge, particularly under the Stored Communications Act (SCA). The SCA limits the government's ability to compel the disclosure of consumer information from internet service providers. Absent platforms' consent, courts have held that cities may only require companies to disclose transaction records by means of a subpoena (or similar legal process) that is narrowly designed to identify illegal activity and affords platforms a meaningful opportunity to challenge the reasonableness of the requested information.

5. Provide Direction to Staff

The following are options for the Council to consider:

- Direct staff to initiate the process to enact a full STR ban and provide direction to staff on how to address the fiscal impact of a full STR ban

- Direct staff to return the draft ordinance presented on September 26, 2018, for Council consideration

- Direct staff to draft a new STR ordinance for Council consideration and provide direction regarding regulatory items to be included

- Direct staff to return to Council with additional options for regulating STRs

ATTACHMENTS:

1. July 9, 2018 City Council Staff Report
2. September 26, 2018 City Council Staff Report
3. September 20, 2018 Letter from California Coastal Commission Staff
4. City of Malibu's General Undesignated Fund Reserve Policy
5. Draft Financial Analysis Presentation Prepared by Raftelis Financial Consultants
6. Transient Occupancy Rates in Cities Throughout California
7. December 6, 2016 Letter from California Coastal Commission

City Council Meeting
03-26-18
Item
4.A.

Council Agenda Report

To: Mayor Mullen and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: June 28, 2018 Meeting date: July 9, 2018

Subject: Short-Term Rental Ordinance

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on the first reading Ordinance No. 435 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act, amending Title 17 of the Malibu Municipal Code (MMC) and adding Chapter 17.55 (Short-term Rental Ordinance) to MMC Title 17 (Zoning) to establish provisions to regulate short-term rentals of property citywide; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 435 for the July 23, 2018 Regular City Council Meeting.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

DISCUSSION: The proposed Short-Term Rental Ordinance is intended to clarify the existing prohibition on short-term rentals in multifamily buildings, set minimum standards and requirements for the short-term rental of property and preserve neighborhood character. The ordinance was drafted based on direction provided by City Council and has been revised through the legislative process to reflect the comments received from the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES), the Planning Commission and members of the public, while keeping to the original Council direction.

This report provides a brief background on short-term rentals in Malibu, provides data on the current short-term rental market, presents the Planning Commission's recommendation from the May 7, 2018 Planning Commission Meeting, addresses the concerns raised by the Planning Commission, provides an overview of the draft ordinance, and discusses potential implementation and enforcement of the proposed ordinance.

Background

Short-term rental of residential property is currently allowed in single-family homes in the City so long as such rental complies with the MMC, the property is registered with the City, and Transient Occupancy Tax (TOT) is properly remitted.[1] This includes MMC regulations addressing parking, noise, special event gatherings (permit needed for events with 15 or more people) and nuisance issues.

Short-term rental of residential property has long been a practice in Malibu and predates the City's incorporation in 1991. For many years, rentals were handled directly by owners or with the assistance of real estate agents or brokers. With the rise of internet platforms such as Airbnb, VRBO, Homeaway and others in the last decade, the short-term rental process has become more convenient, efficient and robust and, as a result, property is rented on a short-term basis more frequently.

The MMC includes Chapter 3.24 titled "Uniform TOT Ordinance of the City of Malibu." In 2009, the City began the collection of TOT on the short-term rental of private homes in accordance with Chapter 3.24. A short-term rental is generally described in MMC Chapter 3.24 as the rental of a structure for 30 consecutive calendar days or less. This includes any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, rental unit, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof, and shall further include any trailer court, camp, park or lot where trailer spaces, or combinations of such spaces and trailers, including mobilehomes, are occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes.

In April 2015, Airbnb began collecting and remitting TOT for the properties in the City that are rented through its website, some of which are also registered directly with the City.

Current Market Landscape

There are currently a total of 408 properties that are remitting TOT for short-term rental of property. Of the 408, 220 are registered directly with the City and 188 are registered through Airbnb.

[1] MMC Chapter 3.24 requires owners and operators of short-term rental properties to register their property with the City and remit TOT on a quarterly basis. It also authorizes the City to collect TOT when a hotel, motel or residential home is occupied for 30 consecutive calendar days or less. The tax rate is 12 percent of the amount charged. Registration is a one-time $25 fee and taxes are collected on a quarterly basis. If an owner or operator fails to remit TOT as required the City may impose interest and penalties on the amount owed.

In Fiscal Year 2016-2017, the City received $1.8 million in tax revenue from short-term residential rentals. In Fiscal Year 2017-2018, the City expects to receive $1.8 million.

Given the rapid growth of online rental platforms which facilitate the short-term rental of property, it is highly likely that there are properties in Malibu that are used for short-term rental that are not registered with the City or with Airbnb.

In order to gather more accurate data and gain better oversight of short-term rentals, the City issued a Request for Proposal for short-term rental administration in winter 2017. On February 13, 2018, the City entered into a contract with Host Compliance (Host). Host has a proprietary software service that collects data weekly across the top 50 short-term rental listing sites. All the data collected on short-term rental listings, including reviews, calendar information and photos, is then aggregated, de-duplicated and documented by the Host program. Host has been collecting information on short-term rentals in Malibu for the past several months. From the information gathered thus far, Host has developed some preliminary data on the current Malibu short-term rental market which it can compare to some historical data points and provide a fuller context with which to understand current dynamics and review potential policy changes.

Many owners advertise their short-term rental units on multiple websites. Owners can change their listings at any time and, to address this, Host updates its data on a weekly basis and is regularly tracking market trends. As of June 22, 2018, Host identified 945 listings in Malibu. Of the 945 listings, Host identified 522 unique rental units.[2] This data suggests over a hundred rental units are currently not registered with the City. Monitoring by Host will facilitate identification of unregistered owners and increase compliance.

Data from Host indicates the majority of Malibu's short-term rentals are large, single family homes. Approximately 94 percent of the City's short-term rentals are for entire homes[3] and approximately 74 percent are for single family residences. Approximately 62 percent of the City's entire home short-term rental units are three bedrooms or more. In fact, approximately 20 percent are five bedrooms or more. The majority of the City's short-term rentals rent for over $400 a night. The relatively unique composition of Malibu's short-term rental housing stock has less of an impact on affordable housing than in other communities that have more diversified listings at lower average costs.

To provide a broader context for the current figures on short-term rentals, staff researched the total number of housing units in the City. Where the General Plan estimated that there were over 4,000 single-family homes in Malibu, the California

[2] Units in multifamily buildings are counted as separate and distinct units.

[3] This includes instances when homeowners rent out accessory dwelling units, duplex units, etc. (where the unit is listed as an "entire home" rental) but the homeowner is actually next door for the duration of the stay.

Department of Finance estimates that there were 6,907 total housing units in Malibu as of January 1, 2017, of which 5,373 were single-family homes (including detached and attached).

Legislative Review

On November 9, 2015, in response to complaints from residents regarding a particular single-family home being used for short-term rental, the Council directed staff to develop options for regulating short-term residential rental property owners who misuse the property or cause a nuisance in the neighborhood.

On February 8, 2016, the Council reviewed a range of enforcement mechanisms from a ban of all short-term residential rentals to limits on rentals, such as restricting the number of days per year a property can be rented, or instead, strictly enforcing noise and nuisance ordinances already on the books to deal with problem rental properties. The Council voted not to ban short-term rentals, but rather to allocate more resources to help prosecute violations of the MMC, and particularly the City's noise ordinance, special events permit requirements, and parking codes and authorized a contract for on-call monitoring services of short-term residential rentals with SWS, Inc.

On June 16, 2016, the Council received an update on issues related to short-term residential rentals. Council directed staff to bring back an item exploring ordinances regulating short-term rentals, including primary residency requirement of hosts, code violation consequences, licensing of short-term rentals, occupancy limits, fines structure and methods of enforcement.

On October 10, 2016, the Council reviewed options for regulating short-term residential rentals and directed staff to bring back a draft ordinance that included:

1. A ban on short-term rental properties with outstanding code enforcement violations, as well as the advertisement of such properties, with each violation of the ban resulting in the ban extending an additional six months from the date the enforcement violation is cured;

3. A ban on the short-term rental of multifamily housing, except for home sharing (where the owner is present on the property during the stay), which prevents this housing from being converted to hotel/motel use;

4. A limit on the number of days a property can be rented;

5. Requirement of proof of primary residence at the property, or that the host live at the property for a certain number of days a year;

6. A requirement that rentals meet certain standards, e.g. annual inspections, onsite parking for all guests, handicapped access on the property and in the home, compliance with all fire safety and occupancy codes, requiring onsite manager or that the manager is available 24-7; and

7. A requirement that CC&Rs for future developments and/or major remodels in the City to include provisions banning short-term rentals.

Staff drafted an ordinance based on the direction provided by Council and presented it to ZORACES (Attachment 3) for discussion and feedback.

On May 23, 2017, ZORACES discussed the proposed ordinance and recommended that staff draft an ordinance to include the following:

1. Prohibition of short-term rentals and home sharing in the Multi-Family Residential zone for complexes with three or more units:

2. A requirement for signage indicating 24 hours per day, seven days per week contact information for a designated manager, visible to the public at all times;

3. A requirement for compliance terms to be met or revocation of rental privileges be imposed for six months, to be increased upon lack of further compliance, which could lead to criminal penalties if compliance is ultimately not met; and

4. A requirement that homeowners attest when they register that their homes have smoke detectors with an inspection provision;

The Subcommittee also recommended that staff research:

- Covenants, conditions, and restrictions of homeowners associations that could provide examples for communities that would like to create privately enforceable restrictions;

- Whether the owner should be allowed to be the designated manager;

- Examples of types of contact information signage used in other communities;

- The cost to fund one or two full-time positions related to enforcement;

- The need for an inspection program for wastewater treatment systems; and

- Hosting guidelines that could be provided to TOT registrants, similar to the Filming Code of Conduct for film permits.

Staff revised the proposed ordinance based on the recommendations provided by ZORACES and presented it to the Planning Commission at a duly noticed public hearing. On November 20, 2017, the Planning Commission reviewed and made comments on the draft short-term rental ordinance; however, the Planning Commission did not make a motion or reach consensus at the meeting.

Staff categorized all the comments received by the Commissioners, prepared responses to address all Commissioners' comments by category and made adjustments to the proposed ordinance (Attachment 3). On May 7, 2018, the Planning Commission held a public hearing to review the revised ordinance and made two motions as follows:

- Directed staff to prepare a resolution stating that the Planning Commission recommends that the City Council find that the short-term rental of property is currently prohibited in all residential zones in the City and adopt an ordinance memorializing that prohibition; and

- Directed staff to include in the resolution a recommendation that if a ban on the short-term rental of property was not put in place, a CEQA environmental study be prepared if necessary.

Planning Resolution No. 18-26 is attached (Attachment 2).

Below, staff has categorized comments received from the Planning Commissioners and members of the public and prepared the responses below.

<u>May 7 Planning Commission Meeting Comments</u>

Commercial Use of Property in Residential Zones
Concerns were raised about whether short-term rentals constituted a commercial use in residential zones. The justification for allowing short-term rental of property in a residential zone is that like long-term rental of property, money is collected in exchange for allowing occupancy of a dwelling unit. In that way, long-term rental of property is a revenue-generating use of property just like short-term rental. Also, similar to a long-term rental, the property owner or manager may or may not be onsite or local. Both long-term and short-term rental of residential property is currently allowed in Malibu. The primary difference is the length of time the occupants stay in the dwelling unit. Under the proposed ordinance, restrictions on short-term rental units would be greater than those for dwelling units occupied on a permanent or longer term basis in order to address

concerns that have been expressed about short-term occupancy. For example, unlike units occupied by long-term tenants, for short-term rental properties:

- Contact information for the owner or owner's agent must be provided to the City and neighbors within 500 feet, and will be made available to Host so they can notify the owner of complaints
- The owner or owner's agent must be available 24 hours a day, seven days a week while the unit is in use as a short-term rental
- Parking must be onsite. For long-term occupied units, there are no restrictions on parking.
- Occupancy by more than 14 people requires a special event permit (SEP). For a long-term occupied unit, there is no limit on occupancy and a SEP is only needed for an event with 100 or more attendees.

Corporate Ownership of Residential Homes

Concerns were raised about the potential for corporations, investment groups or individuals to buy properties for the sole purpose of short-term rental. The extent to which this is currently occurring is unknown. However, based on registration data, it does not appears to be a widespread local phenomenon. As Host continues to monitor short-term rentals and refine its data, the City will have better information regarding this topic which can be reported to City Council and used to guide future policy. If corporate ownership is determined to be a problem, there are a number of policies that the City could consider adopting that could potentially inhibit the growth of short-term rental investment properties. These policy options include, but are not limited to, requiring that only individuals can register for short-term rental and putting a limit on the number of properties a single person or entity can register for short-term rental. Research shows that many of these regulatory policies are difficult to enforce and there are many ways in which corporate entities or individuals can work around these regulations. Depending on further direction from City Council, the City could evaluate these policies for implementation if needed in the future.

Definition of Multi-Family Residence

Questions were raised as to why the ordinance defines multi-family residence as a building with three of more dwelling units. This definition of multi-family residence is already established in MMC Chapter 17.02.060. The proposed ordinance is designed to clarify and be consistent with existing codes and thus relies on the existing definition of a multi-family residence. Based on this language, short-term rentals could occur at single-family and duplex properties only. The Council could choose to change this definition for purposes of the STR ordinance. For example, several owners of multi-family buildings asked that the definition be changed to increase the number of units to more than four. Other types of definitional changes suggested would allow some short-term rental within multi-family buildings. Such changes would make the proposed ordinance less restrictive

than the City's current ban on multi-family unit rentals but would put the City's affordable housing at greater risk.

Primary Residence Requirement
A primary residence requirement on short-term rentals was suggested by some in an effort to limit the number of short-term rentals in the City. This requirement was included in the original draft of the proposed ordinance that was presented to ZORACES on May 23, 2017. During the discussion at the May 23, 3017 ZORACES meeting, it was determined that this requirement was problematic due to the number of Malibu residents who own more than one home. At the recommendation of the Subcommittee, the primary residence requirement was removed from subsequent drafts of the proposed ordinance.

Permitting System
Use of a permitting system, rather than a registration program, was suggested to strengthen the City's ability to regulate short-term rentals and revoke rental privileges. The draft ordinance has been revised to incorporate a permitting system. Further discussion of the proposed permitting system will be included in the next section of the report.

Occupancy Rates
The proposed ordinance establishes a maximum number of occupants based on the number of bedrooms in a rental unit. One of the major reasons that occupancy limits are being proposed is so existing onsite septic systems designed for single family residences are not overwhelmed by the number of occupants in a short-term rental. The presence of children and babies increases demands on septic systems.

Short-Term Rental Code of Conduct
A Code of Conduct has been developed to provide short-term renters rules and regulations associated with short-term rentals (Attachment 4) including:

- *Emergency Concerns:* Short-term renters may be unaware of Malibu's fire dangers, emergency protocols and evacuation routes. Additional emergency information will be included in the Short-Term Rental Code of Conduct.
- *Septic System Concerns:* Short-term renters may be unaware of septic system requirements. Additional information on septic systems will be included in the Short-Term Rental Code of Conduct.

Noise and Neighborhood Nuisance Issues
The ordinance has been revised to include several provisions to ensure that neighbors' concerns are addressed more quickly and that violations of noise and other regulations can result in the revocation and denial of a short-term rental permit for an extended period of time.

California Environmental Quality Act

The Planning Commission expressed concern about potential impacts of short-term rentals and recommended that if a ban were not put in place,that CEQA analysis be required for the proposed ordinance to analyze these effects depending on what ordinance was put in place. At the direction of Council, any such issues could be more fully explored in studies not limited the areas of concern under CEQA, but staff's analysis of the proposed ordinance is that it is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines as it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and those that would apply to owners and long-term renters. For example, when not in use as a short-term rental, a three-bedroom house could be occupied by any number of tenants and its tenants and guests could park any number of cars on the street. It would not be limited to eight tenants, as a short-term rental would be, nor would it be constrained to parking on the property. The proposed ordinance does not expand the ability to rent property on a short term basis; it does the opposite, so any environmental impacts related to short-term rentals would be reduced by this ordinance, not increased.

Draft Ordinance

The ordinance was drafted based on direction provided by the City Council and has been revised through the legislative process to reflect the comments received from ZORACES, the Planning Commission and members of the public, while keeping to the original Council direction. Throughout the process, the intent of the ordinance remained the same: to clarify the existing prohibition on short-term rentals in multifamily buildings, set minimum standards and requirements for the short-term rental of property and preserve neighborhood character. The main points of the draft ordinance (Attachment 1) are summarized here.

1) Institutes a permit system where the owner of a short-term rental property must possess a valid Short-Term Rental Permit (STR Permit). Each permit will be assigned a unique number, and a separate permit application is required for every rental unit.

2) The STR Permit Application shall include contact information for the owner or owner's agent. The owner or owner's agent must be available to answer calls from the City and deal with any problems at the short-term rental property twenty-four hours a day, seven days a week.

3) The STR Permit Applicant shall attest that they are in compliance with all requirements of the Short-Term Rental Ordinance, MMC Chapter 3.24, including compliance with all applicable codes regarding fire, building and safety and other relevant laws, as well as the requirement that there are no outstanding code violations on the property.

4) The STR Permit is valid for one year and must be renewed annually.

5) The contact information for the owner or owner's agent shall be provided to all properties within 500 feet of the parcel boundary at the owner's expense. This is intended to provide neighbors a point of contact to informally raise or resolve concerns. This requirement was included in lieu of signage due to potential security risks associated with identifying a property as a rental.

6) The property must have onsite parking for all guests, unless the property does not have onsite parking, in which case guests are limited to parking two vehicles on the street. If street parking for more than two vehicles is necessary, a special event permit (SEP) must be obtained. This requirement is designed to limit overflow on-street parking as the SEP would count against the maximum of four events allowed each year per residential parcel.

7) Owner or owner's agents is required to grant City representatives access to the property and records if needed for inspection or audit.

8) The owner shall provide a Short-term Rental Code of Conduct prepared by the City, intended to provide important information, including rules and expectations for conduct, to all guests and post it inside the entrance to the dwelling. A draft Code of Conduct is included as Attachment 3.

9) The maximum occupancy of short-term rental units is designed to coincide with the number of bedrooms in the dwelling unit. The maximum occupancy is limited to two people more than twice the number of bedrooms of record, up to 14 people max. This is consistent with the requirement of MMC Section 5.34.020(C) to obtain a special event permit if a short-term rental is proposed to accommodate 15 people or more.

10) The STR Permit Number shall be displayed on all short-term rental advertisements. This will facilitate monitoring and enforcement of short-term rentals.

11) The STR Permit can be denied or revoked if the applicant is found to have knowingly made false statements in the application.

12) The STR Permit can also be denied or revoked if the property is found to have not paid TOT due, has outstanding code violations, does not comply with all applicable codes, is not in the condition to be rented on a short-term basis or if the property has received more than two citations for noise violations within a consecutive twelve month period.

13) The STR Permit can also be denied or revoked if a total of three citations for violation of any combination of the following requirements occur within a consecutive twelve month period: parking, responsiveness, access, posting of the Code of Conduct, maximum occupancy and listing the permit number on all advertisements.

14) Short-term rental of any vehicle, trailer, tent, storage shed, garage, or other such premises is explicitly prohibited. This provision specifically clarifies the existing ban on individuals offering Airstreams, tents and similar places as vacation rentals.

15) A ban on short-term rentals in multifamily buildings containing three or more units, except for home sharing (where the owner is present on the property during the stay).

16) If an application for a STR Permit is denied, a new application cannot be approved for that applicant and location for a twelve month period.

17) If a STR Permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve months from the date of revocation.

18) The short-term rental of property or the advertisement of property for short-term rental after denial or revocation of a STR Permit shall result in the property and the applicant being ineligible to conduct short-term rental of property for an additional six month period for each such rental.

19) It establishes an appeal process for the denial or revocation of a STR Permit and prohibits the appellant from the short-term rental of property when the appeals process is pending.

20) The appeals process includes a hearing to be scheduled before the Planning Commission. The decision of the Planning Commission shall be appealable to the City Council.

21) Violations are subject to fines of $1,000 per day or violation.

22) The STR Permit holder shall be responsible for administrative citations for violations of the municipal code committed by guests at the property.

23) Any violation of this ordinance shall be considered a separate offence for each and every day the violation occurs or persists.

Implementation and Enforcement of the Proposed Ordinance

The City has already taken significant steps to increase enforcement resources. The City now has three full-time code enforcement officers available to address short-term rental issues along with other code violations. In addition, the City has contracted with Host to assist with monitoring and enforcement of short-term rentals. The Host software will enable the City to easily and accurately identify properties that list short-term rentals and work with owners to come into compliance. The system includes a robust hotline and web portal that will enable community members to register complaints at any time and upload photos and video files, and document and track all complaints received for City staff.

If the draft ordinance is approved with the proposed twenty-four hour, seven days a week contact person, Host's hotline system can generate a call to the responsible party on file to alert them of issues at the rental property.

City staff contacted representatives from a wide range of municipalities in popular tourist destinations currently grappling with short-term rentals regarding staffing and enforcement protocols. Based on those discussions, staff believes that the City's current staffing levels with augmentation from Host are sufficient to address short-term rental compliance at this time given the current scale of short-term rentals and the ordinance provisions proposed.

Once Host's comprehensive system is fully up and running and tracking all the short-term rental data and complaints received, the City will have more information to inform staffing and enforcement needs going forward.

PUBLIC NOTICE: On June 14, 2018, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu, display ads were published in the local newspapers, and was mailed to all interested parties; and all owners/operators currently registered with the City's Transient Occupancy Tax Program (Attachment 5).

SUMMARY: Staff recommends that the City Council introduce the draft ordinance on first reading and direct staff to schedule the second reading, or provide direction on changes to the ordinance to be reviewed at a future hearing.

ATTACHMENTS:

1. Draft Ordinance
2. Planning Commission Resolution No.18-26

3. May 7, 2018 Planning Commission Staff Report – available online at www.malibucity.org/STR
4. Short-Term Rental Code of Conduct
5. June 14, 2018 Public Hearing Notice

ORDINANCE NO. 435

AN ORDINANCE OF THE CITY OF MALIBU ADDING CHAPTER 17.55 TO THE MALIBU MUNICIPAL CODE IMPLEMENTING REGULATIONS FOR THE SHORT-TERM RENTAL OF PROPERTY IN THE CITY

The City Council of the City of Malibu does hereby ordain 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, 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on 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 in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 finding that the short-term rental of property is

currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.. The Commission further recommended that if, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, that the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is 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, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, 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 Rental Permit Required.

A. Short-term rental of property (or the advertisement, offer, or facilitation, of such rental), is prohibited unless conducted in strict compliance with the requirements of this chapter by an owner who possesses a valid short-term rental permit.
B. A separate short-term rental permit is required for every rental unit.
C. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:
    1. Contact information for the owner and owner's agent operating the rented property
    2. Contact information for the owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, who is available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any guest staying at the property. The owner's agent must be available twenty-four (24) hours a day, seven (7) days a week to answer calls from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property.
    3. Attestation and agreement to comply with the requirements of this Chapter.
    4. Proof that the owner and operator of the rented property is in compliance with Chapter 3.24 of this code.
    5. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property.

D. Review and Approval. Short-term rental permits shall be subject to the approval of the City the City Manager or her/his designee.
E. Notice of Approval. The Planning Director shall provide, at the owner's expense, the contact information for the owner's agent identified in (B)(2) above to all dwelling units within five hundred (500) feet of the parcel boundary.
F. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.
G. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.
H. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:
    1. The applicant has not paid all transient occupancy tax due, or is not in compliance with Chapter 3.24 of this code.
    2. The property has any outstanding code enforcement violations.
    3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
    4. The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
    5. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter (e.g. a property with outstanding code violations may not be rented).
    6. The property has received more than two citations for violation of the City's noise ordinance within a period of twelve (12) consecutive months.
I. 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.

17.55.020 Specific Requirements for Short-term Rentals.

A. The following requirements shall be strictly adhered to by those conducting the short-term rental of property. In addition to all other penalties and remedies, a short-term rental permit application (or renewal application) may be denied or revoked where a total of three (3) citations for violation of any combination of the following requirements (and/or the requirements of 17.55.030(B)) occur within a period of twelve (12) consecutive months.
    1. All persons present at the property during a period when there is a short-term rental of a property must park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces are exempt from this requirement, but no more than two (2) vehicles may be parked on the street by persons present at the property during the short-term rental of the property.
    2. The owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, must be available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any guest staying at the property. The owner's agent must be available to answer a call to this number

from the City, an agent authorized by the City to make such calls or a guest when there is a guest renting the property.

3. Owner or owner's agent 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 her/his designee for purposes of inspection or audit.
4. Owner or owner's agent 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.
5. 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 fourteen (14) people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
6. The short-term rental permit number must be prominently posted on all advertisements for the short-term rental of the property.

B. 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. In addition to all other remedies, violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

17.55.030 Short-term Rentals in Multifamily Housing.

A. Short-term rental of property is prohibited in multifamily residential buildings containing three (3) 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, or facilitate the short-term rental of such properties.
   2. No person shall occupy a residential dwelling, a dwelling unit or a portion thereof for a period of thirty (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. Section 17.55.020(A) does not apply to the short-term rental of a dwelling unit in a multifamily residential building if the unit 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, (2) complies with the requirements of 17.55.010, and (3) if contacted by City staff, the owner appears within ninety (90) minutes in person at the property.

C. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

17.55.040 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal must shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.050 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant and location for a twelve month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of section 17.55.020, or (3) more than two (2) citations for violation of the City's noise ordinance in a period of twelve (12) consecutive months, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall result in the property and applicant being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.
D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.060 Revocation

A. A short-term rental permit may be revoked if a preponderance of the evidence demonstrates that the property or permit holder is in violation of Section 17.55.010(G) or 17.55.020.

17.55.070 Appeals

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 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. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code committed by guests at the property.

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.

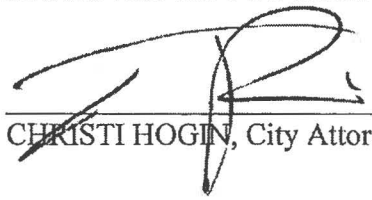
Section 3. Zoning Text Amendment No. 18-xxx.

The City Council 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 18-26

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE MEMORIALIZING THAT THE SHORT TERM RENTAL OF PROPERTY IS PROHIBITED IN ALL RESIDENTIAL ZONES OF THE CITY

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

SECTION 1. Recitals.

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

B. On May 23, 2017, the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City Council reviewed a draft ordinance (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

C. 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.

D. On November 20, 2017, the Planning Commission held a duly noticed public hearing on the draft ordinance, 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. The Commission discussed additional information they wished to receive and changes to the draft ordinance.

E. On April 12, 2018, 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.

F. On May 7, 2018, the Planning Commission held a duly noticed public hearing on the draft ordinance, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

SECTION 2. Zoning Text Amendment Recommendations

Pursuant to MMC Section 17.74.040, the Planning Commission makes the following recommendations.

A. The Planning Commission hereby finds that the short-term rental of property is currently prohibited in all residential zones in the City and recommends that the City Council adopt an ordinance memorializing this prohibition.

B. If, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, the Planning Commission recommends that the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

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

PASSED, APPROVED AND ADOPTED this 7th day of May 2018.

CHRIS MARX, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 18-26 was passed and adopted by the Planning Commission of the City of Malibu at the Special meeting held on the 7th day of May 2018 by the following vote:

AYES:	3	Commissioners:	Mazza, Uhring, Marx
NOES:	1	Commissioner:	Jennings
ABSTAIN:	0		
ABSENT:	1	Commissioner:	Pierson

KATHLEEN STECKO, Recording Secretary

CITY OF MALIBU

Welcome to the City of Malibu. It is the goal of the City that all visitors and residents are able to enjoy Malibu's natural environment while maintaining its rural residential character. Our Code of Conduct is a way to assist us toward this goal.





ATTACHMENT 4

RESOURCES

SHORT-TERM RENTAL HOTLINE

xxx-xxx-xxxx

CITY CODE ENFORCEMENT

310-456-2489, ext.484

LOS ANGELES COUNTY SHERIFF DEPARTMENT

818-878-1808

LOS ANGELES COUNTY FIRE DEPARTMENT

310-317-1802

MALIBU EMERGENCY & TRAFFIC HOTLINE

310-456-9982

CONTACT US

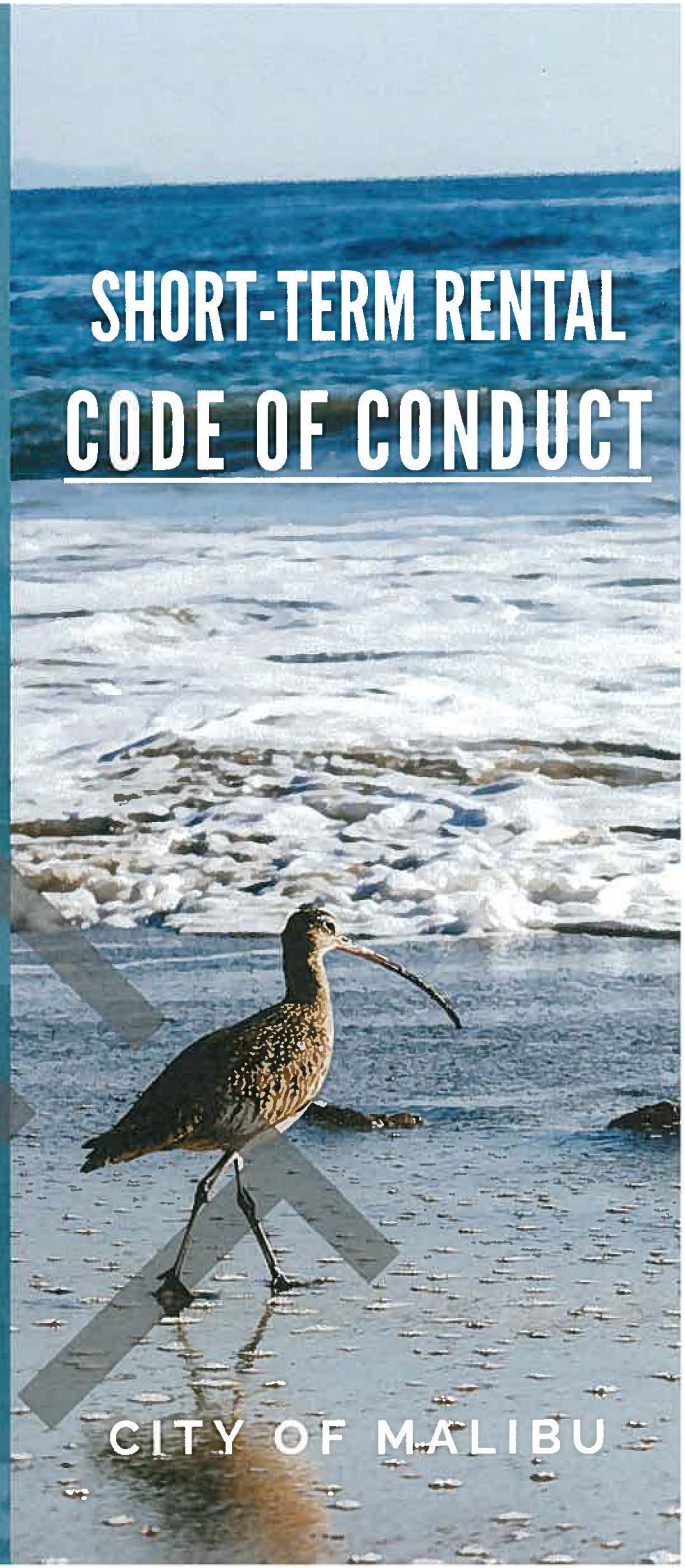
23825 Stuart Ranch Rd
Malibu, CA 90265

310-456-2489

MalibuCity.org/STR

CITY OF MALIBU

SHORT-TERM RENTAL CODE OF CONDUCT



CITY OF MALIBU

SHORT-TERM RENTAL
CODE OF CONDUCT



Please refer to Malibu Municial Code (MMC) Title 17 for more details regarding the City's Short-Term Vacation Rental Ordinance.

NEIGHBORHOOD IMPACTS

Occupancy:

The maximum occupancy of the short term rental property is limited to two people more than twice the number of bedrooms of record up to 14 people.

Noise:

Please keep all noise levels to a minimum. *(MMC Chapter 8.24)*

Trash:

Please keep trash and recycling containers out of public view until pick-up day and remove all containers from the street and sidewalk no later than 8 PM on collection day. Place containers on the street and sidewalk no sooner than 5:30PM the day before your scheduled collection. *(MMC Section 9.28)*

Parking:

All guests shall park onsite. Garages are required to be available for guest parking. If the property does not have onsite parking no more than two vehicles may be parked on the street.

Special Events:

A Special Event Permit is required in conjunction with a short-term rental if 15 or more people are anticipated to attend. *(MMC Section 5.34.020(C))*

Fines:

Any violation of Malibu Municiple Code Title 17 Chapter 55 is subject to a fine of $1,000 per day or violation.

ENVIRONMENTAL REGULATIONS

Plastic Bag Ban:

The City of Malibu has banned the distribution of plastic bags for groceries, pharmacies, restaurants, and retail stores. Please help us to ensure that plastic bags do not end up on the beaches and in the ocean. *(MMC Section 9.28)*

Polystyrene Foam Ban:

The City of Malibu has banned the sale and distribution of foam packaging, food ware, beach toys, ice chests or coolers made from polystyrene. Please refrain from using these polystyrene foam products to help preserve the natural environment. *(MMC Section 9.24)*

Plastic straws and cutlery:

The City of Malibu has banned the sale and distribution of plastic straws and cutlery for groceries, pharmacies, restaurants, and retail stores. Please help us to ensure that plastic straws and cutlery do not end up on the beaches and in the ocean. *(MMC Section 9.28)*

High Risk Fire Hazard Severity Zone:

Malibu is in a very high fire hazard severity zone. Please exercise extreme caution. Get to know your evacuation routes and be prepared to evacuate on short notice in case of wildfire.

Onsite Wastewater Treatment:

Most homes in Malibu rely on onsite wastewater treatment systems (septic systems) rather than traditional sewer systems. Please be mindful of this during your stay.

- Minimize use of garbage disposals
- Use a drain catch and put food waste in the garbage
- Never dispose of the following down the drain: kitty litter, feminine hygiene products, paper towels, diapers, cigarettes, drugs, cooking oil, and grease
- Never dispose of household chemicals into the septic system

DRAFT

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, July 9, 2018, at 6:30 p.m. in the Council Chambers, Malibu City Hall**, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

SHORT-TERM RENTAL ORDINANCE

ZONING TEXT AMENDMENT NO. 17-002 – The Malibu City Council will consider amendments to Title 17 (Zoning Ordinance) of the Malibu Municipal Code and the Planning Commission's recommendations regarding short-term rental of property (also known as vacation rentals) in residential and multi-family zones

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Bonnie Blue, Planning Director (310) 456-2489, extension 258 bblue@malibucity.org

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

A written staff report will be available at or before the hearing. All persons wishing to address the Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents are available for review at City Hall during regular business hours. Written comments may be presented to the City Council at any time prior to the beginning of the public hearing.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Bonnie Blue, Planning Director, at (310) 456-2489, extension 258.

Bonnie Blue
Planning Director

Publish Date: June 14, 2018

Adjourned Meeting
09-26-18
Item
4.B.

Council Agenda Report

To: Mayor Mullen and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: September 6, 2018 Meeting date: September 26, 2018

Subject: Short-Term Rental Ordinance (Continued from July 9, 2018)

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 436 (Attachment A) determining the project is categorically exempt from the California Environmental Quality Act, amending Title 17 of the Malibu Municipal Code (MMC) and adding Chapter 17.55 (Short-term Rental Ordinance) to MMC Title 17 (Zoning) to establish provisions to regulate short-term rental of property citywide; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 436 for the October 8, 2018 Regular City Council Meeting.

FISCAL IMPACT: In Fiscal Year 2016-2017, the City collected $1.8 million from transient occupancy tax of short-term residential rentals. In Fiscal Year 2017-2018, this revenue source generated $2.3 million (unaudited). It is likely that this tax revenue source will be negatively impacted by the proposed ordinance, but the extent of this decrease cannot be determined at this time. If additional law enforcement resources are approved, a budget amendment in the amount of $66,000 will be needed and brought back to Council as part of the mid-year budget review.

DISCUSSION: This item was continued at the July 9, 2018 Regular City Council Meeting with direction to staff to return with a revised ordinance. The proposed Short-Term Rental Ordinance clarifies the extent of the existing prohibition on short-term rentals in multifamily buildings and sets standards and requirements for the short-term rental of property to address potential impacts of short-term rentals and preserve neighborhood character.

This report provides a brief background on short-term rentals in Malibu, addresses the concerns raised by the Council at the July 9, 2018 Regular City Council Meeting, provides an overview of the updated draft ordinance, and discusses implementation and enforcement of the proposed ordinance. Specifically, this report provides information on the following items requested by the Council:

- limiting on-street parking;
- an option allowing rental of two units in multifamily buildings and information on the characteristics of the City's multifamily unit inventory;
- regulation options for condominiums and communities with Covenants, Conditions and Restrictions (CC&Rs);
- issuing permits to individuals rather than corporations;
- a primary residence requirement and potential exemptions;
- an onsite wastewater treatment system permit requirement;
- permit fees and processing, including a phasing-in period; and
- ordinance enforcement.

Background

Short-term rental of residential property is currently allowed in single-family homes in the City so long as such rental complies with the MMC, the property is registered with the City, and Transient Occupancy Tax (TOT) is properly remitted.[1] This includes MMC regulations addressing parking, noise, nuisance issues and special event gatherings. A Special Events Permit is needed for events with 15 or more people taking place in a short-term rental.

Short-term rental of residential property predates the City's incorporation in 1991. For many years, rentals were handled directly by owners or with the assistance of real estate agents or brokers. With the rise of internet platforms such as Airbnb, VRBO, Homeaway and others in the last decade, the short-term rental process has become more convenient, efficient and robust and, as a result, short-term rental activity has increased. In April 2015, Airbnb began collecting and remitting TOT for the properties in the City that are rented through its website, some of which are also registered directly with the City.

There are currently 414 properties that are remitting TOT for short-term rental. Of the 414, 226 are registered directly with the City and 188 are registered with Airbnb. In

[1] MMC Chapter 3.24 requires owners and operators of short-term rental properties to register their property with the City and remit TOT on a quarterly basis. It also authorizes the City to collect TOT when a hotel, motel or residential home is occupied for 30 consecutive calendar days or less. The tax rate is 12 percent of the amount charged. Registration is a one-time $25 fee and taxes are collected on a quarterly basis. If an owner or operator fails to remit TOT as required, the City may impose interest and penalties on the amount owed.

Fiscal Year 2016-2017, the City received $1.8 million in tax revenue from short-term residential rentals. In Fiscal Year 2017-2018, the City received $2.3 million in tax revenue from short-term residential rentals.

Given the rapid growth of online rental platforms, which facilitate the short-term rental of property, it is highly likely that there are properties in Malibu that are used for short-term rental that are not registered with the City or with Airbnb. In order to gather more accurate data and gain better oversight of short-term rentals, the City entered into a contract with Host Compliance (Host) in February 2018. Host has a proprietary software service that collects data weekly across the top 50 short-term rental listing sites. All the data collected on short-term rental listings, including reviews, calendar information and photos, is then aggregated, de-duplicated and documented by the Host program. Data from Host collected in recent months has been used to provide context, understand current dynamics and review potential policy changes.

As of August 15, 2018, Host identified 925 listings in Malibu across 50 sites. Of the 925 listings, Host identified 523 unique rental units.[2] This data suggests over a hundred rental units not registered with the City. Monitoring by Host will facilitate identification of unregistered owners and increase compliance. The California Department of Finance estimates that there were 6,907 total housing units in Malibu as of January 1, 2017, of which 5,373 were single-family homes (detached and attached).

Data from Host indicates the majority of Malibu's short-term rentals are large, single-family homes. Approximately 94 percent of the City's short-term rentals are for entire homes[3] and approximately 74 percent are for single family residences. Approximately 62 percent of the City's entire home short-term rental units are three bedrooms or more. In fact, approximately 20 percent are five bedrooms or more. The majority of the City's short-term rentals rent for over $400 a night.

July 9, 2018 Council Meeting

On July 9, 2018, the Council held a public hearing on the regulation of short-term rentals. The agenda report (Attachment B) summarized the Planning Commission's recommendation (including Planning Commission Resolution No. 18-26 as an attachment). The report also provided a draft ordinance prepared by staff based on previous direction from Council, ZORACES and the Planning Commission proposing a short-term rental permit (STR Permit) system. At the conclusion of its deliberations, Council expressed consensus approving all but two of the 24 main points summarized in the agenda report regarding the proposed ordinance. Specifically, Council requested

[2] Units in multifamily buildings are counted as separate and distinct units.
[3] This includes instances when homeowners rent out accessory dwelling units, duplex units, etc. where the unit is listed as an "entire home" rental while the homeowner is next door for the duration of the stay.

changes to the proposed parking regulations and the prohibition of short-term rentals in multifamily buildings. In addition, Council requested that staff research and bring back options for establishing primary residence requirements, developing special exemptions from primary residence requirements, regulating rentals in condominiums, requiring Onsite Wastewater Treatment System (OWTS) operating permits for short-term rental properties, determining permit fees, processing permit applications, phasing in the permit system, and enforcement tools. Additional information is provided for each of these topics below, followed by a summary of the updated draft ordinance.

Analysis of Issues Raised by Council

Parking Requirements

The previous draft ordinance required all parking to be accommodated onsite, except where a short-term rental property did not have any onsite parking. In those instances, a maximum of two vehicles could be parked on the street. The purpose of this allowance was to accommodate a small number of properties that were built without garages. Such properties are almost exclusively legal non-conforming homes on the ocean side of Pacific Coast Highway (PCH) in the east portion of Malibu where the original onsite driveway parking was absorbed by highway expansion over the years.

At the direction of Council, the updated draft ordinance requires that all guests park onsite, except properties that do not have onsite parking may park one vehicle on the street. Staff researched properties in east Malibu to identify the number of properties which lack onsite parking and found approximately 38 such parcels. Approximately 16 of these parcels are conducting short-term rentals, based on registrations, TOT payments or online listings.

Multifamily Units

MMC Section 17.02.060 defines a multifamily residence as a building with three or more dwelling units. Multifamily residences can be in the form of an apartment building or complex, in which a single property owner owns the entire property and rents out the individual units, or in the form of condominiums which are individually owned dwelling units located on a single parcel owned in common by all the unit owners. The previous draft ordinance prohibited short-term rentals in multifamily buildings, including condominiums, except for homesharing, where the owner is present in the dwelling unit at the time of the rental.

In response to public comment, Council requested additional information on the City's multifamily residential housing stock and options for regulating short-term rentals in

multifamily apartments and multifamily condominium properties, and specifically an option that allowed the short-term rental of up to two units in a multifamily building.

- *Location of Multifamily Units*

Staff researched both City zoning maps and data from the County of Los Angeles Office of the Assessor (County Assessor) to identify multifamily (apartment and condominium) development in the City. A map identifying all parcels zoned for multifamily and commercial uses is provided in Attachment C. The map shows that the multifamily zoned parcels are generally concentrated in a few areas throughout the City, primarily in eastern Malibu along PCH.

While most multifamily units are located in multifamily zoned parcels, it is important to note that there are some exceptions. The County Assessor classifies properties based on the development on the site, not the property's zoning. According to the County Assessor, approximately 21 of the City's 94 multifamily apartment parcels are located in Single-Family Residential Zones. Of the 21 multifamily apartment parcels in Single-Family Residential Zones, only three parcels consist of five or more units. There are also approximately 30 condominium complexes in the City most of which are located in multifamily residential zones.

- *Multifamily Units - Apartments*

Council received public comment from a number of multifamily apartment property owners and long-term tenants who presented arguments in favor of allowing short-term rentals in apartment buildings.

According to the County Assessor, the City has approximately 94 parcels containing roughly 473 total apartment units (note each parcel may contain more than one building). Analysis of this data shows approximately 50 percent of all apartment units are located in properties with five or more units, approximately 32 percent of units are located in quadraplexes and approximately 18 percent of units are located in triplexes.

Multifamily apartments diversify Malibu's housing stock and make up a major proportion of its affordable long-term rental housing. In an effort to balance short-term rentals and long-term rental housing stock, staff is recommending that short-term rentals be limited to two units per multifamily apartment property, regardless of the total number of units on the property. For example, if an apartment complex has three units, at most two could be used for short-term rentals, and if an apartment complex has 20 units, only two could be used for short-term rentals.

This proposed short-term rental unit cap for multifamily apartment properties will be easier to enforce than limitations based on a percentage of rental units within a building and will also ensure that more units overall are preserved for long-term rental. These regulations would strongly discourage corporations, investment groups or individuals from buying multifamily properties for the sole purpose of short-term rental or converting apartment or condo complexes into "short-term rental hotels/motels."

The ordinance also proposes to require the multifamily building owner to rent all other units in the complex on a long-term basis, unless the unit is occupied by the property owner. This requirement has many benefits. First, it will make the two-unit cap enforceable as the owner will not be able to illegally rent out additional units because they will be occupied. Second, it will provide an incentive to building owners to charge reasonable or low rent to long-term renters in order to ensure they maintain those tenants and the ability to rent units on a short-term basis.

- *Multifamily Units - Condominiums*

Condominiums are generally, but not always, located in multifamily configurations of three or more dwelling units per building. Staff estimates that there are roughly 1,118 condominium units spread out over approximately 30 different complexes throughout the City. Staff recommends treating condominiums the same as single-family residences for the purposes of short-term rental as long as the condominium's CC&Rs do not prohibit short-term rental. As part of the STR Permit application, an applicant seeking a permit for the short-term rental of a condominium unit will be required to attest that the condominium's CC&Rs do not prohibit short-term rental of units, and that he or she has notified the condominium owners' association (COA) of the STR Permit application and retained proof of the notification.

Under the proposed system, if a unit owner has obtained a STR Permit in a condominium where short-term rentals are prohibited or is not be able to provide proof of COA notification, the City could revoke the STR Permit and impose penalties.

STR Permit Holders

Staff recommends issuing one permit per individual, regardless of the number of properties the individual may own. In other words, a person and not a corporation, trust or other entity would have to apply for and obtain the permit. The permit would be associated with one specific property. This permit would allow the individual's property to be listed and used for homesharing, renting the primary dwelling unit, renting an accessory dwelling unit or renting the whole property. Any violation that occurs on the property, regardless of how it is rented (i.e., whole property or some portion), would count against the individual's STR Permit. In the case of owners of multifamily

apartment properties, the property owner (individual) would be allowed to rent a maximum of two units in the apartment complex under a multifamily STR Permit. Similar to single-family residences, any violation that occurs on the multifamily apartment property would count against the individual's STR Permit.

Primary Residency Requirements

Primary residency requirements have been used by other municipalities as a way to curb the practice of acquiring properties solely for the purpose of renting them on a short-term basis. The draft ordinance proposes to require the property to be the owner's primary residence where they live for no less than 185 days of both the previous calendar year and the calendar year during which the STR Permit is active.

STR Permit applicants can demonstrate primary residency by providing copies of three of the following documentation types: a Driver's License, State Identification Card, Motor Vehicle Registration, Property Tax Bill, Tax Documents, Utility Bills, and Bank Statements. Most ordinances do not specify the documentation type. Rather, the options are listed on the permit application form as is proposed here.

Primary Residency Requirement Exemptions

Council received public comments from a number of property owners who presented arguments against a primary residency requirement, including situations where a property is inherited by siblings who share the property and thus cannot establish primary residency at the property. Council requested that staff research options for exempting certain applicants or properties from primary residence requirements.

Staff reached out to a number of cities currently grappling with short-term rentals but was unable to identify any effective exemptions that are currently in place. Ulrik Binzer, the CEO of Host, who advises cities throughout the country on short-term rental policy, warns against establishing any exemptions because they are susceptible to abuse. Instead of developing exemptions, staff recommends creating a two-tier permit system, as discussed below.

Separate Permits for Primary Residents and Non-Primary Residents

The two-tier STR Permit system would establish one tier for documented primary resident property owners and another for non-primary resident property owners. Under this permitting system, non-primary residents would be held to a stricter standard of operation and the penalty for violations would be greater. For example, while a STR Permit issued to a primary resident can be denied or revoked if the owner receives more than **two** citations, a STR Permit issued to a non-primary resident can be denied

or revoked if the owner receives more than **one** citation. This bifurcated system is intended to correct for the fact that primary residents are likely to be more responsive to complaints and limit impacts on the neighborhood as they live there themselves.

In addition, while primary residents would be permitted to conduct short-term rentals throughout the year, non-primary residents would only be permitted to conduct short-term rentals **between April 1 and September 30 each year**. This limitation will discourage corporate owners, investment groups or individual investors from buying properties for the sole purpose of renting a property on a short-term basis because the financial return would be limited to only half of the year. At the same time, longtime property owners with divided family interests where no one claims the property as a primary residence will still be able to generate seasonal income to help maintain their ownership. A seasonal limitation is also easier to enforce than a cap on the number of days a property can be rented. Concentrating the availability of short-term rentals in the summer months also provides a source of visitor-serving accommodations during the period of greatest demand at a time when the City will have maximum code enforcement resources deployed.

Onsite Wastewater Treatment System (OWTS) Operating Permits

The City currently manages OWTS through an operating permit program. As of 2008, all commercial and multifamily residences, including condominiums, are required to have a valid OWTS Operating Permit (operating permit). Single-family residences are currently required to obtain an operating permit upon the sale of the property, major remodel or expansion or replacement of OWTS components. Operating permits must be renewed regularly. For a conventional residential OWTS, the operating permit must be renewed every five years, while the permit for an advanced OWTS must be renewed every three years.

To obtain an operating permit, a property owner must complete the Operating Permit Application, have the OWTS inspected by a City-registered inspector, and pay a fee. The inspection may result in a "pass," a "conditional pass," or a "fail." The inspection generally costs between $400 and $1,000 depending on the type of system and accessibility to the system. If the system passes inspection, the OWTS operating permit fee is currently $463. If the system receives a conditional pass, the applicant will be required to perform some remedial work on the OWTS in order to receive an operating permit, at which time the operating permit fee would be paid. The cost for these remedial repairs to residential OWTS generally varies from $1,000 to up to $20,000 in some cases.

If the system fails inspection, the applicant must enter into a compliance agreement with the City which sets forth a timeline for correction of the system deficiencies. The

compliance agreement requires that the applicant submit an application to install a new OWTS, usually within six months, install the new OWTS usually within one year after the application submittal, and adhere to specific interim measures established by the City, such as a routine inspection and pumping schedule for the duration of the compliance period. The cost to install a new system depends on several factors including but not limited to system type and size. Generally, pumping costs range from $600 to $900 per occurrence while the installation of a new OWTS can cost $60,000 or more.

Staff estimates that currently, approximately 33 to 50 percent of all Malibu households have obtained an operating permit and, of the properties currently registered for TOT, approximately 50 percent have obtained an operating permit.

Staff recommends adding short-term rental of property to the existing property milestones (e.g., point of sale or major renovation) that trigger an owner to obtain an operating permit.[4] This requirement is likely to result in a number of property owners needing to upgrade or repair their OWTS. This may cause enrollment for some property owners in the operating permit program sooner than otherwise would have been required. This is beneficial in the case of short-term rentals as it decreases the likelihood that visitors to the property who may not be familiar with septic systems would overburden a system or experience system failure. This requirement also aligns with the City's water quality protection goals by expediting system upgrades and repairs. Allowing property owners to continue to rent their properties during the compliance period would help offset costs and would be consistent with the current operating permit policy which allows owners to stay in their homes for the duration of the compliance period when the systems are being pumped.

Staff also recommends including in the Short-term Rental Code of Conduct a requirement that informational material must be presented to all renters to familiarize them with the fact that the residence is connected to an OWTS, what precautions must be utilized to protect the OWTS, and how the misuse of the OWTS may cause health risks and have significant impacts of the environment. A contact number for service for the OWTS system in the event of problems would also be included.

STR Permit Fees

The Council requested information regarding the potential fee that could be set for the new STR Permit. All permit fees must be based on an analysis of actual costs to process the permit and enforce the permit requirements. These costs include staff time and overhead to administer the program, the City's contract with Host, and the cost to

[4] This change would be accomplished by amending MMC Chapter 15.44, which was adopted by City Council (Ordinance No. 435) on August 27, 2018 and does not yet appear in the online version of the MMC.

provide additional law enforcement personnel to monitor short-term rentals. Various City personnel are needed to administer the Host contract, monitor the Host system, review permit applications, track TOT, and address code enforcement issues. Based on an analysis of all the associated costs, staff recommends charging $400 for STR Permits.

According to data compiled by Host Compliance, the majority of Malibu's short-term rentals are listed for over $400 per night. Thus, the cost of the proposed permit fee can be quickly recouped and is not likely to discourage property owners from obtaining a STR Permit. A fee that is too high is likely to lead to individuals renting their properties illegally or more often in order to recoup the money spent on the fee. To get an understanding of established STR Permit fee rates and provide a benchmark for discussion, staff researched STR Permit fees in municipalities throughout the country and found that STR Permit fees typically range from $25 to $949 annually - although fees in the upper tier often involved significantly more staff time than the proposed draft ordinance before the Council. The City's proposed STR Permit fee falls well within this range.

Processing STR Permit Applications

In its deliberations, Council discussed whether all STR Permit applications should have a single annual application and renewal date, or whether applications and renewals would be more easily handled on a rolling basis throughout the year. Staff recommends that permit applications be submitted and approved on a rolling basis. This will help minimize the additional work involved with implementing the permit system by spreading application review and processing out throughout the year. The Host system can track the annual term of an individual's permit, including any citations and tax remittance, on a rolling basis.

Phasing in the Permit System

In recognition of the fact that short-term rentals are often booked far in advance and in order to give people enough time to prepare their STR Permit Applications, staff is recommending that the ordinance go into effect six months after final adoption. This means that within six months of the final ordinance adoption date, any individual conducting short-term rental of property must obtain a STR Permit. Similarly, any individual conducting short-term rental of property who fails to obtain a STR Permit must cease the short-term rental of the property within six months. During the six-month period, the City will conduct outreach to hosts and those registered for TOT about the new ordinance and will work with Airbnb and other platforms to notify their hosts.

Draft Ordinance

Following is a summary of the changes incorporated into the draft ordinance (Attachment A) at Council's direction following the July 9, 2018 meeting.

1) All guests must park on site, unless the property does not have onsite parking, in which case guests are limited to parking one vehicle on the street. If street parking for more than one vehicle is necessary, a special event permit (SEP) must be obtained.
2) Creates 3 types of permits: primary resident, non-primary resident and multifamily.
3) A multifamily permit allows a maximum of two units to be rented on a multifamily property, but only if all other units have been rented on a long-term basis.
4) A non-primary resident permit only allows the short-term rental of property between April 1 and September 30 each year and may be revoked or denied for two citations/violations instead of 3.
5) Condominiums shall be eligible for primary resident/non-primary resident permits, but not multifamily permits, if such use is allowed by the community's CC&Rs.
6) To demonstrate primary residency an applicant must provide proof he or she lives on the property and claims it as a primary residence for at least 185 days per year.
7) All short-term rental applicants shall be required to acquire an OWTS operating permit if the property does not already have a permit or be in compliance with an approved compliance agreement.
8) Creates a violation for fee-collecting platforms that facilitate illegal short term rentals.
9) Requires attestation that the short-term rental of property is not prohibited by CC&Rs/HOA, and that the applicant provide notice to the HOA that the property will be rented on a short-term basis.
10) The STR Permit fee shall be $400.
11) STR Permit applications shall be processed on a rolling basis throughout the year.
12) The ordinance will go into effect six months after final adoption.

Implementation and Enforcement of the Proposed Ordinance

The City has already taken significant steps to increase enforcement resources but will increase enforcement and education efforts with the implementation of the new ordinance. An array of tools and resources will be used, depending on the nature of the activity. These tools and resources include:

- City Code Enforcement Staff. The current enforcement structure includes three full-time code enforcement officers available to address short-term rental issues along with other code violations. With Host's software system in place, the City's code enforcement officers can effectively monitor and enforce short-term rental rules. Host's system can accurately identify properties that list short-term rentals so that staff can work with owners to come into compliance. This work would generally occur during business hours. A specific Code Enforcement Officer will be the designated point of contact for short-term rental issues.

- Host Compliance System. The system includes an automated hotline and web portal that will enable community members to register complaints at any time, upload photos and video files, and document and track all complaints received for reporting to City staff. Each STR Permit holder will provide a twenty-four hour, seven days a week contact person that will be registered with Host's online system. When a complaint is submitted to Host either online or through its phone system, Host's hotline system will generate a call to the responsible party on file to alert them of issues at the rental property. Failure to answer the call would be a violation of the ordinance subject to penalties.

  It is expected that since such a violation would count against the limits of the property owner's STR Permit that can trigger revocation, property owners will be incentivized to answer the call and quickly address any problems at the property. The Host system gives callers the option to request a call back within 30 minutes so they can comment on whether the situation has been resolved. If the situation has not been resolved within 30 minutes, the caller may request to be connected with the local non-emergency police line and a record of the complaint will be sent to the City's Code Enforcement staff to follow up during normal business hours.

  If the complaint results in the issuance of a police or code enforcement officer citation, a violation will be recorded and would count against the limits of the property owner's STR Permit that can trigger revocation.

- Platforms may not profit from facilitating illegal short term rentals. The ordinance now creates a violation for fee-collecting platforms if they facilitate illegal short

term rentals. Such platforms will be subject to penalties if they violate the ordinance by allowing an illegal rental to be booked through their platform.

- Sheriff STR Team. After discussions with the Sheriff's Department, it was determined that short-term rental issues related to loud, unruly, late-night parties, noise violations and similar issues which are likely to occur outside of normal business hours are best handled by local law enforcement. Law enforcement personnel receive extensive training on handling potentially volatile situations, making them better suited than City Code Enforcement staff to address any such issues that may arise outside of normal business hours.

  Sheriff deputies are not only the most appropriate personnel to handle these situations but also the most cost effective. Assigning Sheriff deputies to perform late night and weekend patrol would be less expensive than hiring additional City Code Enforcement personnel to be available during weekend evenings. Staff is proposing that the City incorporate an additional patrol unit on designated, but unpublished, weekends and weekday nights to focus on short-term rentals, particularly during periods when significant short-term rental activity is anticipated.

  The STR patrol would consist of two Sheriff deputies in a dedicated patrol car with additional training and focus on short-term rental, special event permit and noise ordinances. This will ensure that law enforcement is available to respond to short-term rental complaints during the City's peak rental period. The cost to provide this additional patrol unit is estimated to be approximately $66,000 and would be funded with the proceeds from the STR Permit fees. If approved, an amendment to the Fiscal Year 2018-2019 expenditure budget will be necessary and an item will be included in the mid-year budget amendments.

City staff contacted representatives from a wide range of municipalities in popular tourist destinations currently dealing with staffing and enforcement protocols for short-term rentals. Based on those discussions, staff believes that the City's current staffing levels with augmentation from Host and the Sheriff's Department are sufficient to adequately address short-term rental compliance and enforcement needs at this time given the current scale of short-term rentals and the ordinance provisions proposed.

Once Host's comprehensive system is fully up and running and tracking all the short-term rental data and complaints received, the City will have more information which can be used to inform staffing and enforcement needs going forward.

PUBLIC NOTICE: On August 30, 2018, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was

mailed to all interested parties; and all owners/operators currently registered with the City's TOT Program (Attachment D). In addition, posts were made on the City's social media platforms and print ads were published in the local newspapers.

SUMMARY: Staff recommends that the City Council introduce the draft ordinance on first reading and direct staff to schedule the second reading or provide direction on changes to the ordinance to be reviewed at a future hearing.

ATTACHMENTS:

A. Proposed Ordinance No. 436
B. July 9, 2018 Council Report
C. Multifamily and Commercial Zoning Map
D. Notice of Public Hearing

ORDINANCE NO. 436

AN ORDINANCE OF THE CITY OF MALIBU ADDING CHAPTER 17.55 TO THE MALIBU MUNICIPAL CODE IMPLEMENTING REGULATIONS FOR THE SHORT-TERM RENTAL OF PROPERTY IN THE CITY

The City Council of the City of Malibu does hereby ordain 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, 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on 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 in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 finding that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.. The Commission further recommended that if, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, that

the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. Council directed staff to revise the ordinance and return with additional information at the September 11, 2018, Regular City Council meeting.

J. The September 11, 2018 Regular City Council Meeting was cancelled.

K. On August 30, 2018, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; homeowners associations on record with the City; regional, state and federal agencies affected by the amendment; local libraries and media; and the California Coastal Commission.

L. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is 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, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of thirty (30) consecutive days or less to a transient.

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

Section 17.55.010 Short-term Rental Permit Required.

A. Short-term rental of property , is prohibited unless conducted in strict compliance with the requirements of this chapter by an owner who possesses a valid short-term rental permit. No person or entity shall collect a fee or any compensation in connection with reservation or payment services that facilitate the short-term rental of property in the city except for properties where the owner possesses a valid short-term rental permit that would allow the short term rental that is facilitated..
B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit.
C. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:

1. Contact information for the owner of the property
2. Contact information for the owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, who is available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any person staying at the property to answer calls from the City, an agent authorized by the City to make such calls, or a person who is renting the property.
3. A copy of a valid OWTS permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.020(C) paired with an attestation that the applicant is in full compliance with the compliance agreement and not in default or breach.
4. Attestation and agreement to comply with the requirements of this Chapter.
5. Proof that the owner and operator of the rented property is in compliance with Chapter 3.24 of this code.
6. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property.
7. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that applicant has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the applicant maintains a short-term rental permit for the property.
8. The location of all rental units that will be rented on a short-term basis; no more than two rental units may be approved for short-term rental on a legal lot.
9. The type of short-term rental permit sought: primary resident, non-primary resident, or multifamily.
10. If seeking a primary resident short-term rental permit, proof of primary residency and attestation that the location is the applicant's primary residence, meaning that the applicant lives in a unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the applicant's primary residence for the duration of the permit shall suffice.
11. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants. Copies of the leases for all tenants, and proof of ownership of entire building must be provided within 10 days of a request for such information.
12. Identification of all dwelling units that will be rented on a short-term basis.

D. Review and Approval. Short-term rental permits shall be subject to the approval of the City the City Manager or her/his designee.

E. Notice of Approval. The Planning Director shall provide, at the owner's expense, the contact information for the owner's agent identified in (C)(2) above to all dwelling units within five hundred (500) feet of the parcel boundary.

F. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

G. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.

H. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:
   1. The applicant has not paid all transient occupancy tax due or is not in compliance with Chapter 3.24 of this code.
   2. The property has any outstanding code enforcement violations.
   3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
   4. The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
   5. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter including, but not limited to, situations where the OWTS requirements of Section 17.55.020(C) have not been met.
   6. The property has received more than two citations for violation of the City's noise ordinance within a period of twelve (12) consecutive months.

I. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.

J. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted

17.55.020 Specific Requirements for Short-term Rentals.

A. The following requirements shall be strictly adhered to by those conducting the short-term rental of property. In addition to all other penalties and remedies, a short-term rental permit application (or renewal application) may be denied or revoked where a holder of a Primary Resident Permit receives a total of three (3) citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months, or where a holder of a Non-Primary Resident Permit or Multifamily Permit receives a total of two (2) citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months.
   1. All persons present at the property during a period when there is a short-term rental of a property must park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces are exempt from this requirement, but no more than one (1) vehicle may be parked on the street by persons present at the property during the short-term rental of the property.
   2. The owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, must be available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any person staying at the property. The owner's agent must be available to answer a call to this number from the City, an agent authorized by the City to make such calls or a person who is renting the property.
   3. Owner or owner's agent 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 her/his designee for purposes of inspection or audit.

4. Owner or owner's agent shall provide all persons staying at the property 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.
5. 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 fourteen (14) people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
6. The short-term rental permit number must be prominently posted on all advertisements for the short-term rental of the property.

B. No person shall offer, facilitate an offer, or allow short-term rental of property in any location not specifically identified and approved on a short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage. In addition to all other remedies, violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

C. Short-term rental of property is prohibited on any property unless the owner of the property (1) has obtained a valid OWTS operating permit for the property pursuant to Chapter 15.44 or (2) has entered a compliance agreement with the City excusing such compliance, and is in compliance with the compliance agreement and not in default or breach. In addition to all other remedies, a violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

17.55.030 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Primary Resident Permit. A primary resident owner may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. To be eligible for this type of permit the primary resident owner applicant must provide proof of primary residency in a form acceptable to the City Manager and an attestation, under penalty of perjury, that the location to be permitted is the owner's primary residence. Multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that primary resident owners of condominiums may obtain this type of permit for the unit where he or she has established his or her primary residence.

B. Non-Primary Resident Permit. An owner may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the

permit is valid even if the permitted location is not the owner's primary residence. Property subject to this type of permit may only be rented on a short-term basis during the period between April 1 and September 30 each year. Multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that owners of condominiums may obtain this type of permit.

C. Multifamily Permit. Owners of entire multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two (2) units in the building so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

17.55.040 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal must shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.050 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant and location for a twelve month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.020, (3) more than two (2) citations for violation of the City's noise ordinance in a period of twelve (12) consecutive months for holders of a Primary Resident Permit, or (4) more than one (1) citation for violation of the City's noise ordinance in a period of twelve (12) consecutive months for holders of a Multifamily or Non-Primary Resident Permit, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation.
C. The short-term rental of property (or advertisement or offer of such rental) after denial or revocation of a short-term rental permit shall result in the property and applicant being

ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.

D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.060 Revocation.

A short-term rental permit may be revoked if a preponderance of the evidence demonstrates that the property or permit holder is in violation of Section 17.55.010(H) or 17.55.020.

17.55.070 Appeals.

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.
D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 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. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code committed by persons at the property during a period when the property is rented on short term rental basis.

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 3. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be prior to or concurrent with the application for a short-term rental permit. An operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 4. Zoning Text Amendment Findings.

The City Council 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

SECTION 5. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or

constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 7. Effectiveness.

This Ordinance will become effective on April 1, 2019, following its passage and adoption.

SECTION 8. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this _____ day of October 2018.

_____
RICK MULLEN, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk

Date: _____

APPROVED AS TO FORM:

_____
CHRISTI HOGIN, City Attorney

City Council Meeting
03-26-18
Item
4.A.

Council Agenda Report

To: Mayor Mullen and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: June 28, 2018 Meeting date: July 9, 2018

Subject: Short-Term Rental Ordinance

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on the first reading Ordinance No. 435 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act, amending Title 17 of the Malibu Municipal Code (MMC) and adding Chapter 17.55 (Short-term Rental Ordinance) to MMC Title 17 (Zoning) to establish provisions to regulate short-term rentals of property citywide; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 435 for the July 23, 2018 Regular City Council Meeting.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

DISCUSSION: The proposed Short-Term Rental Ordinance is intended to clarify the existing prohibition on short-term rentals in multifamily buildings, set minimum standards and requirements for the short-term rental of property and preserve neighborhood character. The ordinance was drafted based on direction provided by City Council and has been revised through the legislative process to reflect the comments received from the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES), the Planning Commission and members of the public, while keeping to the original Council direction.

This report provides a brief background on short-term rentals in Malibu, provides data on the current short-term rental market, presents the Planning Commission's recommendation from the May 7, 2018 Planning Commission Meeting, addresses the concerns raised by the Planning Commission, provides an overview of the draft ordinance, and discusses potential implementation and enforcement of the proposed ordinance.

Background

Short-term rental of residential property is currently allowed in single-family homes in the City so long as such rental complies with the MMC, the property is registered with the City, and Transient Occupancy Tax (TOT) is properly remitted.[1] This includes MMC regulations addressing parking, noise, special event gatherings (permit needed for events with 15 or more people) and nuisance issues.

Short-term rental of residential property has long been a practice in Malibu and predates the City's incorporation in 1991. For many years, rentals were handled directly by owners or with the assistance of real estate agents or brokers. With the rise of internet platforms such as Airbnb, VRBO, Homeaway and others in the last decade, the short-term rental process has become more convenient, efficient and robust and, as a result, property is rented on a short-term basis more frequently.

The MMC includes Chapter 3.24 titled "Uniform TOT Ordinance of the City of Malibu." In 2009, the City began the collection of TOT on the short-term rental of private homes in accordance with Chapter 3.24. A short-term rental is generally described in MMC Chapter 3.24 as the rental of a structure for 30 consecutive calendar days or less. This includes any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, rental unit, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof, and shall further include any trailer court, camp, park or lot where trailer spaces, or combinations of such spaces and trailers, including mobilehomes, are occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes.

In April 2015, Airbnb began collecting and remitting TOT for the properties in the City that are rented through its website, some of which are also registered directly with the City.

Current Market Landscape

There are currently a total of 408 properties that are remitting TOT for short-term rental of property. Of the 408, 220 are registered directly with the City and 188 are registered through Airbnb.

[1] MMC Chapter 3.24 requires owners and operators of short-term rental properties to register their property with the City and remit TOT on a quarterly basis. It also authorizes the City to collect TOT when a hotel, motel or residential home is occupied for 30 consecutive calendar days or less. The tax rate is 12 percent of the amount charged. Registration is a one-time $25 fee and taxes are collected on a quarterly basis. If an owner or operator fails to remit TOT as required the City may impose interest and penalties on the amount owed.

In Fiscal Year 2016-2017, the City received $1.8 million in tax revenue from short-term residential rentals. In Fiscal Year 2017-2018, the City expects to receive $1.8 million.

Given the rapid growth of online rental platforms which facilitate the short-term rental of property, it is highly likely that there are properties in Malibu that are used for short-term rental that are not registered with the City or with Airbnb.

In order to gather more accurate data and gain better oversight of short-term rentals, the City issued a Request for Proposal for short-term rental administration in winter 2017. On February 13, 2018, the City entered into a contract with Host Compliance (Host). Host has a proprietary software service that collects data weekly across the top 50 short-term rental listing sites. All the data collected on short-term rental listings, including reviews, calendar information and photos, is then aggregated, de-duplicated and documented by the Host program. Host has been collecting information on short-term rentals in Malibu for the past several months. From the information gathered thus far, Host has developed some preliminary data on the current Malibu short-term rental market which it can compare to some historical data points and provide a fuller context with which to understand current dynamics and review potential policy changes.

Many owners advertise their short-term rental units on multiple websites. Owners can change their listings at any time and, to address this, Host updates its data on a weekly basis and is regularly tracking market trends. As of June 22, 2018, Host identified 945 listings in Malibu. Of the 945 listings, Host identified 522 unique rental units.[2] This data suggests over a hundred rental units are currently not registered with the City. Monitoring by Host will facilitate identification of unregistered owners and increase compliance.

Data from Host indicates the majority of Malibu's short-term rentals are large, single family homes. Approximately 94 percent of the City's short-term rentals are for entire homes[3] and approximately 74 percent are for single family residences. Approximately 62 percent of the City's entire home short-term rental units are three bedrooms or more. In fact, approximately 20 percent are five bedrooms or more. The majority of the City's short-term rentals rent for over $400 a night. The relatively unique composition of Malibu's short-term rental housing stock has less of an impact on affordable housing than in other communities that have more diversified listings at lower average costs.

To provide a broader context for the current figures on short-term rentals, staff researched the total number of housing units in the City. Where the General Plan estimated that there were over 4,000 single-family homes in Malibu, the California

[2] Units in multifamily buildings are counted as separate and distinct units.
[3] This includes instances when homeowners rent out accessory dwelling units, duplex units, etc. (where the unit is listed as an "entire home" rental) but the homeowner is actually next door for the duration of the stay.

Department of Finance estimates that there were 6,907 total housing units in Malibu as of January 1, 2017, of which 5,373 were single-family homes (including detached and attached).

Legislative Review

On November 9, 2015, in response to complaints from residents regarding a particular single-family home being used for short-term rental, the Council directed staff to develop options for regulating short-term residential rental property owners who misuse the property or cause a nuisance in the neighborhood.

On February 8, 2016, the Council reviewed a range of enforcement mechanisms from a ban of all short-term residential rentals to limits on rentals, such as restricting the number of days per year a property can be rented, or instead, strictly enforcing noise and nuisance ordinances already on the books to deal with problem rental properties. The Council voted not to ban short-term rentals, but rather to allocate more resources to help prosecute violations of the MMC, and particularly the City's noise ordinance, special events permit requirements, and parking codes and authorized a contract for on-call monitoring services of short-term residential rentals with SWS, Inc.

On June 16, 2016, the Council received an update on issues related to short-term residential rentals. Council directed staff to bring back an item exploring ordinances regulating short-term rentals, including primary residency requirement of hosts, code violation consequences, licensing of short-term rentals, occupancy limits, fines structure and methods of enforcement.

On October 10, 2016, the Council reviewed options for regulating short-term residential rentals and directed staff to bring back a draft ordinance that included:

1. A ban on short-term rental properties with outstanding code enforcement violations, as well as the advertisement of such properties, with each violation of the ban resulting in the ban extending an additional six months from the date the enforcement violation is cured;

3. A ban on the short-term rental of multifamily housing, except for home sharing (where the owner is present on the property during the stay), which prevents this housing from being converted to hotel/motel use;

4. A limit on the number of days a property can be rented;

5. Requirement of proof of primary residence at the property, or that the host live at the property for a certain number of days a year;

6. A requirement that rentals meet certain standards, e.g. annual inspections, onsite parking for all guests, handicapped access on the property and in the home, compliance with all fire safety and occupancy codes, requiring onsite manager or that the manager is available 24-7; and

7. A requirement that CC&Rs for future developments and/or major remodels in the City to include provisions banning short-term rentals.

Staff drafted an ordinance based on the direction provided by Council and presented it to ZORACES (Attachment 3) for discussion and feedback.

On May 23, 2017, ZORACES discussed the proposed ordinance and recommended that staff draft an ordinance to include the following:

1. Prohibition of short-term rentals and home sharing in the Multi-Family Residential zone for complexes with three or more units:

2. A requirement for signage indicating 24 hours per day, seven days per week contact information for a designated manager, visible to the public at all times;

3. A requirement for compliance terms to be met or revocation of rental privileges be imposed for six months, to be increased upon lack of further compliance, which could lead to criminal penalties if compliance is ultimately not met; and

4. A requirement that homeowners attest when they register that their homes have smoke detectors with an inspection provision;

The Subcommittee also recommended that staff research:

- Covenants, conditions, and restrictions of homeowners associations that could provide examples for communities that would like to create privately enforceable restrictions;

- Whether the owner should be allowed to be the designated manager;

- Examples of types of contact information signage used in other communities;

- The cost to fund one or two full-time positions related to enforcement;

- The need for an inspection program for wastewater treatment systems; and

- Hosting guidelines that could be provided to TOT registrants, similar to the Filming Code of Conduct for film permits.

Staff revised the proposed ordinance based on the recommendations provided by ZORACES and presented it to the Planning Commission at a duly noticed public hearing. On November 20, 2017, the Planning Commission reviewed and made comments on the draft short-term rental ordinance; however, the Planning Commission did not make a motion or reach consensus at the meeting.

Staff categorized all the comments received by the Commissioners, prepared responses to address all Commissioners' comments by category and made adjustments to the proposed ordinance (Attachment 3). On May 7, 2018, the Planning Commission held a public hearing to review the revised ordinance and made two motions as follows:

- Directed staff to prepare a resolution stating that the Planning Commission recommends that the City Council find that the short-term rental of property is currently prohibited in all residential zones in the City and adopt an ordinance memorializing that prohibition; and

- Directed staff to include in the resolution a recommendation that if a ban on the short-term rental of property was not put in place, a CEQA environmental study be prepared if necessary.

Planning Resolution No. 18-26 is attached (Attachment 2).

Below, staff has categorized comments received from the Planning Commissioners and members of the public and prepared the responses below.

<u>May 7 Planning Commission Meeting Comments</u>

Commercial Use of Property in Residential Zones
Concerns were raised about whether short-term rentals constituted a commercial use in residential zones. The justification for allowing short-term rental of property in a residential zone is that like long-term rental of property, money is collected in exchange for allowing occupancy of a dwelling unit. In that way, long-term rental of property is a revenue-generating use of property just like short-term rental. Also, similar to a long-term rental, the property owner or manager may or may not be onsite or local. Both long-term and short-term rental of residential property is currently allowed in Malibu. The primary difference is the length of time the occupants stay in the dwelling unit. Under the proposed ordinance, restrictions on short-term rental units would be greater than those for dwelling units occupied on a permanent or longer term basis in order to address

concerns that have been expressed about short-term occupancy. For example, unlike units occupied by long-term tenants, for short-term rental properties:

- Contact information for the owner or owner's agent must be provided to the City and neighbors within 500 feet, and will be made available to Host so they can notify the owner of complaints
- The owner or owner's agent must be available 24 hours a day, seven days a week while the unit is in use as a short-term rental
- Parking must be onsite. For long-term occupied units, there are no restrictions on parking.
- Occupancy by more than 14 people requires a special event permit (SEP). For a long-term occupied unit, there is no limit on occupancy and a SEP is only needed for an event with 100 or more attendees.

Corporate Ownership of Residential Homes
Concerns were raised about the potential for corporations, investment groups or individuals to buy properties for the sole purpose of short-term rental. The extent to which this is currently occurring is unknown. However, based on registration data, it does not appears to be a widespread local phenomenon. As Host continues to monitor short-term rentals and refine its data, the City will have better information regarding this topic which can be reported to City Council and used to guide future policy. If corporate ownership is determined to be a problem, there are a number of policies that the City could consider adopting that could potentially inhibit the growth of short-term rental investment properties. These policy options include, but are not limited to, requiring that only individuals can register for short-term rental and putting a limit on the number of properties a single person or entity can register for short-term rental. Research shows that many of these regulatory policies are difficult to enforce and there are many ways in which corporate entities or individuals can work around these regulations. Depending on further direction from City Council, the City could evaluate these policies for implementation if needed in the future.

Definition of Multi-Family Residence
Questions were raised as to why the ordinance defines multi-family residence as a building with three of more dwelling units. This definition of multi-family residence is already established in MMC Chapter 17.02.060. The proposed ordinance is designed to clarify and be consistent with existing codes and thus relies on the existing definition of a multi-family residence. Based on this language, short-term rentals could occur at single-family and duplex properties only. The Council could choose to change this definition for purposes of the STR ordinance. For example, several owners of multi-family buildings asked that the definition be changed to increase the number of units to more than four. Other types of definitional changes suggested would allow some short-term rental within multi-family buildings. Such changes would make the proposed ordinance less restrictive

than the City's current ban on multi-family unit rentals but would put the City's affordable housing at greater risk.

Primary Residence Requirement
A primary residence requirement on short-term rentals was suggested by some in an effort to limit the number of short-term rentals in the City. This requirement was included in the original draft of the proposed ordinance that was presented to ZORACES on May 23, 2017. During the discussion at the May 23, 3017 ZORACES meeting, it was determined that this requirement was problematic due to the number of Malibu residents who own more than one home. At the recommendation of the Subcommittee, the primary residence requirement was removed from subsequent drafts of the proposed ordinance.

Permitting System
Use of a permitting system, rather than a registration program, was suggested to strengthen the City's ability to regulate short-term rentals and revoke rental privileges. The draft ordinance has been revised to incorporate a permitting system. Further discussion of the proposed permitting system will be included in the next section of the report.

Occupancy Rates
The proposed ordinance establishes a maximum number of occupants based on the number of bedrooms in a rental unit. One of the major reasons that occupancy limits are being proposed is so existing onsite septic systems designed for single family residences are not overwhelmed by the number of occupants in a short-term rental. The presence of children and babies increases demands on septic systems.

Short-Term Rental Code of Conduct
A Code of Conduct has been developed to provide short-term renters rules and regulations associated with short-term rentals (Attachment 4) including:

- *Emergency Concerns:* Short-term renters may be unaware of Malibu's fire dangers, emergency protocols and evacuation routes. Additional emergency information will be included in the Short-Term Rental Code of Conduct.
- *Septic System Concerns:* Short-term renters may be unaware of septic system requirements. Additional information on septic systems will be included in the Short-Term Rental Code of Conduct.

Noise and Neighborhood Nuisance Issues
The ordinance has been revised to include several provisions to ensure that neighbors' concerns are addressed more quickly and that violations of noise and other regulations can result in the revocation and denial of a short-term rental permit for an extended period of time.

California Environmental Quality Act
The Planning Commission expressed concern about potential impacts of short-term rentals and recommended that if a ban were not put in place,that CEQA analysis be required for the proposed ordinance to analyze these effects depending on what ordinance was put in place. At the direction of Council, any such issues could be more fully explored in studies not limited the areas of concern under CEQA, but staff's analysis of the proposed ordinance is that it is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines as it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and those that would apply to owners and long-term renters. For example, when not in use as a short-term rental, a three-bedroom house could be occupied by any number of tenants and its tenants and guests could park any number of cars on the street. It would not be limited to eight tenants, as a short-term rental would be, nor would it be constrained to parking on the property. The proposed ordinance does not expand the ability to rent property on a short term basis; it does the opposite, so any environmental impacts related to short-term rentals would be reduced by this ordinance, not increased.

Draft Ordinance
The ordinance was drafted based on direction provided by the City Council and has been revised through the legislative process to reflect the comments received from ZORACES, the Planning Commission and members of the public, while keeping to the original Council direction. Throughout the process, the intent of the ordinance remained the same: to clarify the existing prohibition on short-term rentals in multifamily buildings, set minimum standards and requirements for the short-term rental of property and preserve neighborhood character. The main points of the draft ordinance (Attachment 1) are summarized here.

1) Institutes a permit system where the owner of a short-term rental property must possess a valid Short-Term Rental Permit (STR Permit). Each permit will be assigned a unique number, and a separate permit application is required for every rental unit.

2) The STR Permit Application shall include contact information for the owner or owner's agent. The owner or owner's agent must be available to answer calls from the City and deal with any problems at the short-term rental property twenty-four hours a day, seven days a week.

3) The STR Permit Applicant shall attest that they are in compliance with all requirements of the Short-Term Rental Ordinance, MMC Chapter 3.24, including compliance with all applicable codes regarding fire, building and safety and other relevant laws, as well as the requirement that there are no outstanding code violations on the property.

4) The STR Permit is valid for one year and must be renewed annually.

5) The contact information for the owner or owner's agent shall be provided to all properties within 500 feet of the parcel boundary at the owner's expense. This is intended to provide neighbors a point of contact to informally raise or resolve concerns. This requirement was included in lieu of signage due to potential security risks associated with identifying a property as a rental.

6) The property must have onsite parking for all guests, unless the property does not have onsite parking, in which case guests are limited to parking two vehicles on the street. If street parking for more than two vehicles is necessary, a special event permit (SEP) must be obtained. This requirement is designed to limit overflow on-street parking as the SEP would count against the maximum of four events allowed each year per residential parcel.

7) Owner or owner's agents is required to grant City representatives access to the property and records if needed for inspection or audit.

8) The owner shall provide a Short-term Rental Code of Conduct prepared by the City, intended to provide important information, including rules and expectations for conduct, to all guests and post it inside the entrance to the dwelling. A draft Code of Conduct is included as Attachment 3.

9) The maximum occupancy of short-term rental units is designed to coincide with the number of bedrooms in the dwelling unit. The maximum occupancy is limited to two people more than twice the number of bedrooms of record, up to 14 people max. This is consistent with the requirement of MMC Section 5.34.020(C) to obtain a special event permit if a short-term rental is proposed to accommodate 15 people or more.

10) The STR Permit Number shall be displayed on all short-term rental advertisements. This will facilitate monitoring and enforcement of short-term rentals.

11) The STR Permit can be denied or revoked if the applicant is found to have knowingly made false statements in the application.

12) The STR Permit can also be denied or revoked if the property is found to have not paid TOT due, has outstanding code violations, does not comply with all applicable codes, is not in the condition to be rented on a short-term basis or if the property has received more than two citations for noise violations within a consecutive twelve month period.

13) The STR Permit can also be denied or revoked if a total of three citations for violation of any combination of the following requirements occur within a consecutive twelve month period: parking, responsiveness, access, posting of the Code of Conduct, maximum occupancy and listing the permit number on all advertisements.

14) Short-term rental of any vehicle, trailer, tent, storage shed, garage, or other such premises is explicitly prohibited. This provision specifically clarifies the existing ban on individuals offering Airstreams, tents and similar places as vacation rentals.

15) A ban on short-term rentals in multifamily buildings containing three or more units, except for home sharing (where the owner is present on the property during the stay).

16) If an application for a STR Permit is denied, a new application cannot be approved for that applicant and location for a twelve month period.

17) If a STR Permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve months from the date of revocation.

18) The short-term rental of property or the advertisement of property for short-term rental after denial or revocation of a STR Permit shall result in the property and the applicant being ineligible to conduct short-term rental of property for an additional six month period for each such rental.

19) It establishes an appeal process for the denial or revocation of a STR Permit and prohibits the appellant from the short-term rental of property when the appeals process is pending.

20) The appeals process includes a hearing to be scheduled before the Planning Commission. The decision of the Planning Commission shall be appealable to the City Council.

21) Violations are subject to fines of $1,000 per day or violation.

22) The STR Permit holder shall be responsible for administrative citations for violations of the municipal code committed by guests at the property.

23) Any violation of this ordinance shall be considered a separate offence for each and every day the violation occurs or persists.

Implementation and Enforcement of the Proposed Ordinance

The City has already taken significant steps to increase enforcement resources. The City now has three full-time code enforcement officers available to address short-term rental issues along with other code violations. In addition, the City has contracted with Host to assist with monitoring and enforcement of short-term rentals. The Host software will enable the City to easily and accurately identify properties that list short-term rentals and work with owners to come into compliance. The system includes a robust hotline and web portal that will enable community members to register complaints at any time and upload photos and video files, and document and track all complaints received for City staff.

If the draft ordinance is approved with the proposed twenty-four hour, seven days a week contact person, Host's hotline system can generate a call to the responsible party on file to alert them of issues at the rental property.

City staff contacted representatives from a wide range of municipalities in popular tourist destinations currently grappling with short-term rentals regarding staffing and enforcement protocols. Based on those discussions, staff believes that the City's current staffing levels with augmentation from Host are sufficient to address short-term rental compliance at this time given the current scale of short-term rentals and the ordinance provisions proposed.

Once Host's comprehensive system is fully up and running and tracking all the short-term rental data and complaints received, the City will have more information to inform staffing and enforcement needs going forward.

PUBLIC NOTICE: On June 14, 2018, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu, display ads were published in the local newspapers, and was mailed to all interested parties; and all owners/operators currently registered with the City's Transient Occupancy Tax Program (Attachment 5).

SUMMARY: Staff recommends that the City Council introduce the draft ordinance on first reading and direct staff to schedule the second reading, or provide direction on changes to the ordinance to be reviewed at a future hearing.

ATTACHMENTS:

1. Draft Ordinance
2. Planning Commission Resolution No.18-26

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal must shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.050 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant and location for a twelve month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of section 17.55.020, or (3) more than two (2) citations for violation of the City's noise ordinance in a period of twelve (12) consecutive months, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall result in the property and applicant being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.
D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.060 Revocation

A. A short-term rental permit may be revoked if a preponderance of the evidence demonstrates that the property or permit holder is in violation of Section 17.55.010(G) or 17.55.020.

17.55.070 Appeals

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 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. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code committed by guests at the property.

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.

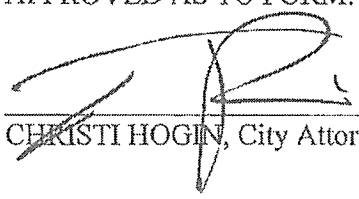
Section 3. Zoning Text Amendment No. 18-xxx.

The City Council 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 18-26

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE MEMORIALIZING THAT THE SHORT TERM RENTAL OF PROPERTY IS PROHIBITED IN ALL RESIDENTIAL ZONES OF THE CITY

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

SECTION 1. Recitals.

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

B. On May 23, 2017, the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City Council reviewed a draft ordinance (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

C. 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.

D. On November 20, 2017, the Planning Commission held a duly noticed public hearing on the draft ordinance, 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. The Commission discussed additional information they wished to receive and changes to the draft ordinance.

E. On April 12, 2018, 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.

F. On May 7, 2018, the Planning Commission held a duly noticed public hearing on the draft ordinance, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

SECTION 2. Zoning Text Amendment Recommendations

Pursuant to MMC Section 17.74.040, the Planning Commission makes the following recommendations.

A. The Planning Commission hereby finds that the short-term rental of property is currently prohibited in all residential zones in the City and recommends that the City Council adopt an ordinance memorializing this prohibition.

B. If, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, the Planning Commission recommends that the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

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

PASSED, APPROVED AND ADOPTED this 7th day of May 2018.

CHRIS MARX, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

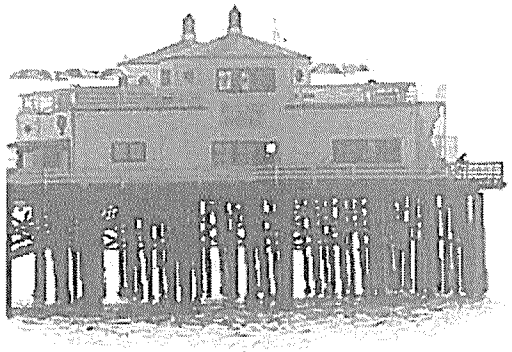
I CERTIFY THAT THE FOREGOING RESOLUTION NO. 18-26 was passed and adopted by the Planning Commission of the City of Malibu at the Special meeting held on the 7th day of May 2018 by the following vote:

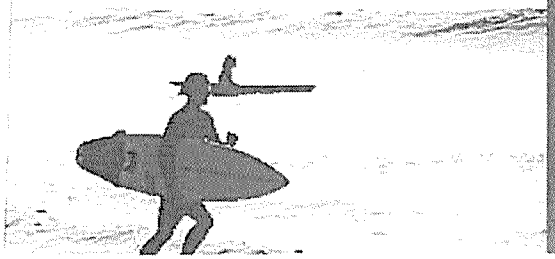
AYES:	3	Commissioners:	Mazza, Uhring, Marx
NOES:	1	Commissioner:	Jennings
ABSTAIN:	0		
ABSENT:	1	Commissioner:	Pierson

KATHLEEN STECKO, Recording Secretary

CITY OF MALIBU

Welcome to the City of Malibu. It is the goal of the City that all visitors and residents are able to enjoy Malibu's natural environment while maintaining its rural residential character. Our Code of Conduct is a way to assist us toward this goal.





ATTACHMENT 4

RESOURCES

SHORT-TERM RENTAL HOTLINE

xxx-xxx-xxxx

CITY CODE ENFORCEMENT

310-456-2489, ext.484

LOS ANGELES COUNTY SHERIFF DEPARTMENT

818-878-1808

LOS ANGELES COUNTY FIRE DEPARTMENT

310-317-1802

MALIBU EMERGENCY & TRAFFIC HOTLINE

310-456-9982

CONTACT US

23825 Stuart Ranch Rd
Malibu, CA 90265

310-456-2489

MalibuCity.org/STR

CITY OF MALIBU

SHORT-TERM RENTAL CODE OF CONDUCT



CITY OF MALIBU

NEIGHBORHOOD IMPACTS

Occupancy:

The maximum occupancy of the short term rental property is limited to two people more than twice the number of bedrooms of record up to 14 people.

Noise:

Please keep all noise levels to a minimum. *(MMC Chapter 8.24)*

Trash:

Please keep trash and recycling containers out of public view until pick-up day and remove all containers from the street and sidewalk no later than 8 PM on collection day. Place containers on the street and sidewalk no sooner than 5:30PM the day before your scheduled collection. *(MMC Section 9.28)*

Parking:

All guests shall park onsite. Garages are required to be available for guest parking. If the property does not have onsite parking no more than two vehicles may be parked on the street.

Special Events:

A Special Event Permit is required in conjunction with a short-term rental if 15 or more people are anticipated to attend. *(MMC Section 5.34.020(C))*

Fines:

Any violation of Malibu Municiple Code Title 17 Chapter 55 is subject to a fine of $1,000 per day or violation.

SHORT-TERM RENTAL CODE OF CONDUCT



Please refer to Malibu Municial Code (MMC) Title 17 for more details regarding the City's Short-Term Vacation Rental Ordinance.

ENVIRONMENTAL REGULATIONS

Plastic Bag Ban:

The City of Malibu has banned the distribution of plastic bags for groceries, pharmacies, restaurants, and retail stores. Please help us to ensure that plastic bags do not end up on the beaches and in the ocean. *(MMC Section 9.28)*

Polystyrene Foam Ban:

The City of Malibu has banned the sale and distribution of foam packaging, food ware, beach toys, ice chests or coolers made from polystyrene. Please refrain from using these polystyrene foam products to help preserve the natural environment. *(MMC Section 9.24)*

Plastic straws and cutlery:

The City of Malibu has banned the sale and distribution of plastic straws and cutlery for groceries, pharmacies, restaurants, and retail stores. Please help us to ensure that plastic straws and cutlery do not end up on the beaches and in the ocean. *(MMC Section 9.28)*

High Risk Fire Hazard Severity Zone:

Malibu is in a very high fire hazard severity zone. Please exercise extreme caution. Get to know your evacuation routes and be prepared to evacuate on short notice in case of wildfire.

Onsite Wastewater Treatment:

Most homes in Malibu rely on onsite wastewater treatment systems (septic systems) rather than traditional sewer systems. Please be mindful of this during your stay.

- Minimize use of garbage disposals
- Use a drain catch and put food waste in the garbage
- Never dispose of the following down the drain: kitty litter, feminine hygiene products, paper towels, diapers, cigarettes, drugs, cooking oil, and grease
- Never dispose of household chemicals into the septic system

DRAFT

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, July 9, 2018, at 6:30 p.m. in the Council Chambers, Malibu City Hall**, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

SHORT-TERM RENTAL ORDINANCE

ZONING TEXT AMENDMENT NO. 17-002 – The Malibu City Council will consider amendments to Title 17 (Zoning Ordinance) of the Malibu Municipal Code and the Planning Commission's recommendations regarding short-term rental of property (also known as vacation rentals) in residential and multi-family zones

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Bonnie Blue, Planning Director (310) 456-2489, extension 258 bblue@malibucity.org

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

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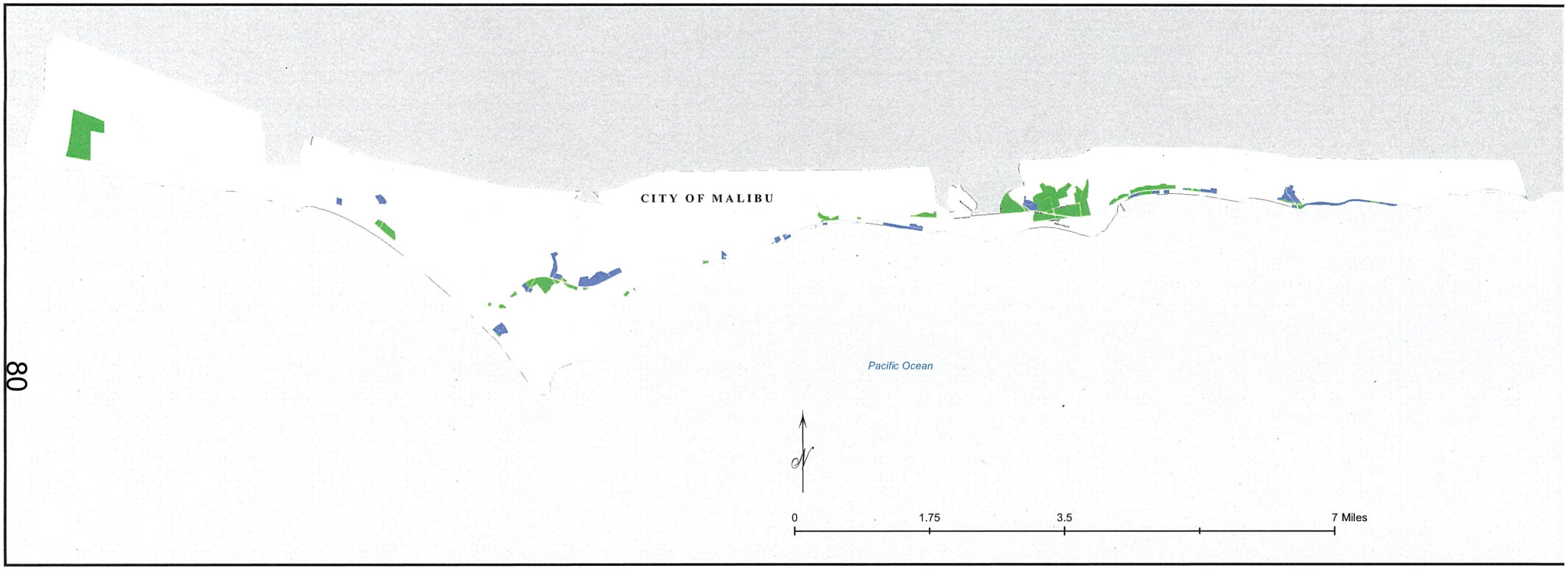
If there are any questions regarding this notice, please contact Bonnie Blue, Planning Director, at (310) 456-2489, extension 258.

Bonnie Blue
Planning Director

Publish Date: June 14, 2018

ATTACHMENT 5

Map of Parcels Zoned Multifamily or Commercial



80

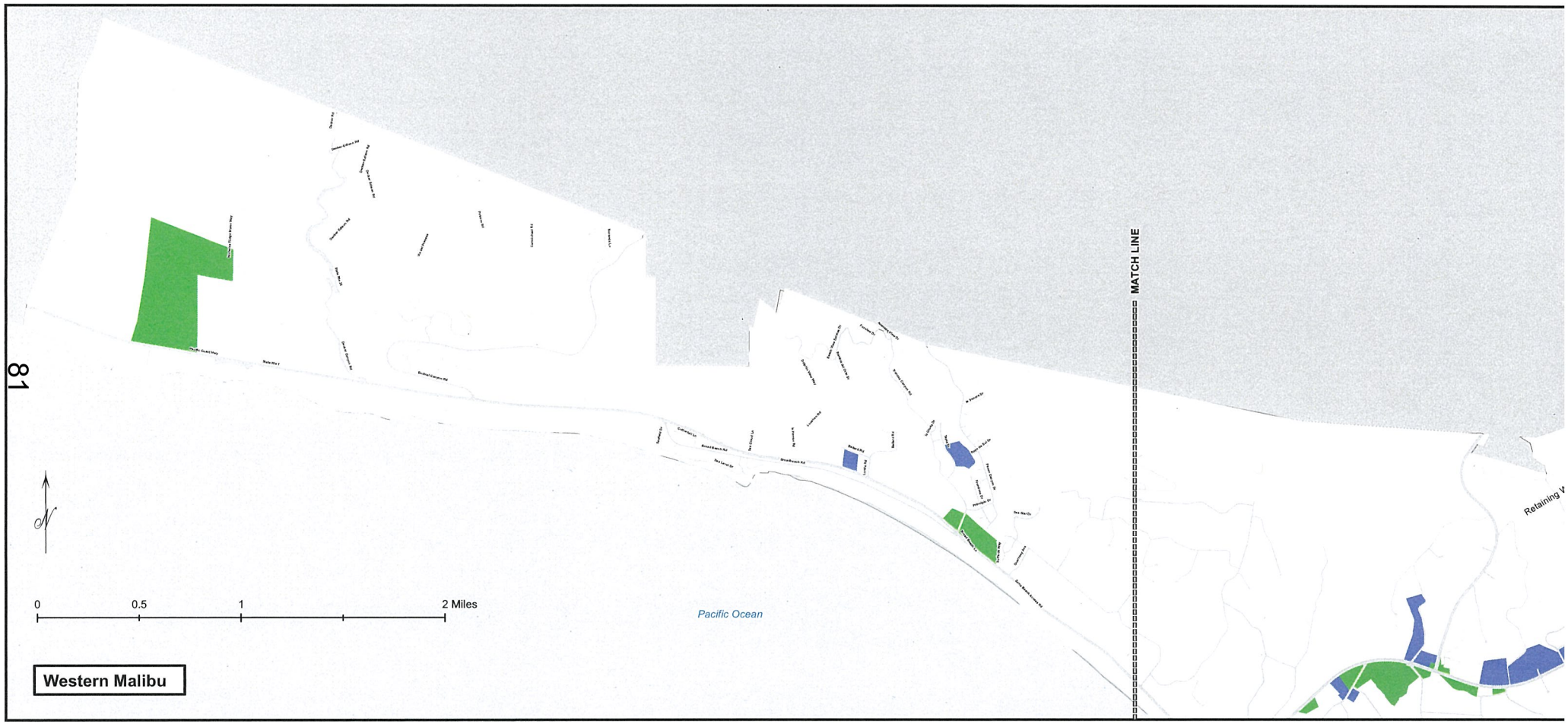
Legend

- Commercial Zones (CC, CG, CN, CR, CV-1, and CV-2)
- Multifamily Residential Zones (MF and MFBF)

Attachment C

Date Prepared: 9/7/2018

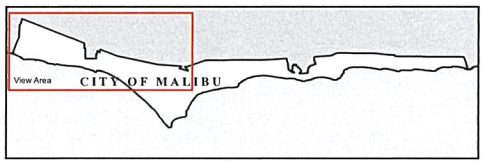
Map of Parcels Zoned Multifamily or Commercial



81

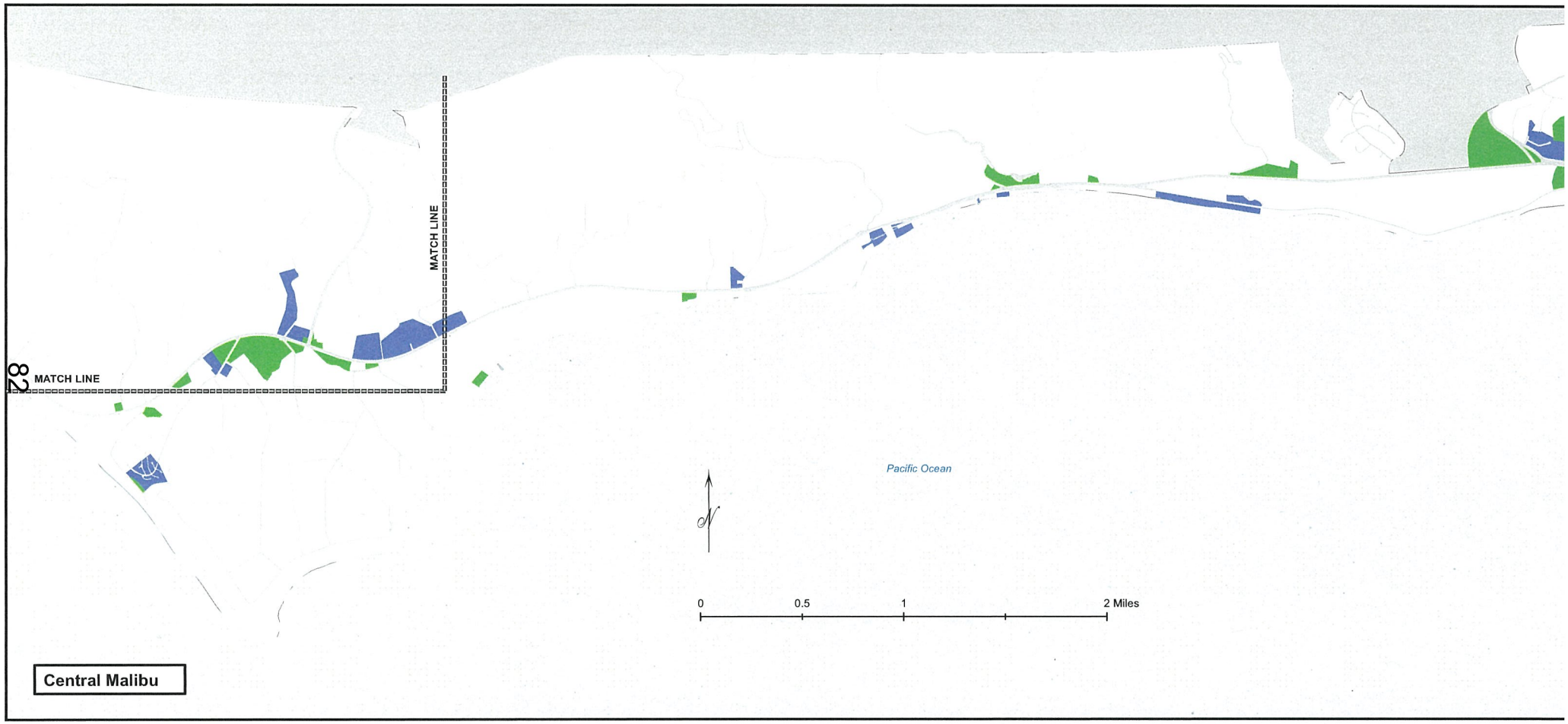
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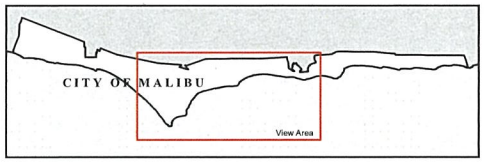
Date Prepared: 9/7/201

Map of Parcels Zoned Multifamily or Commercial



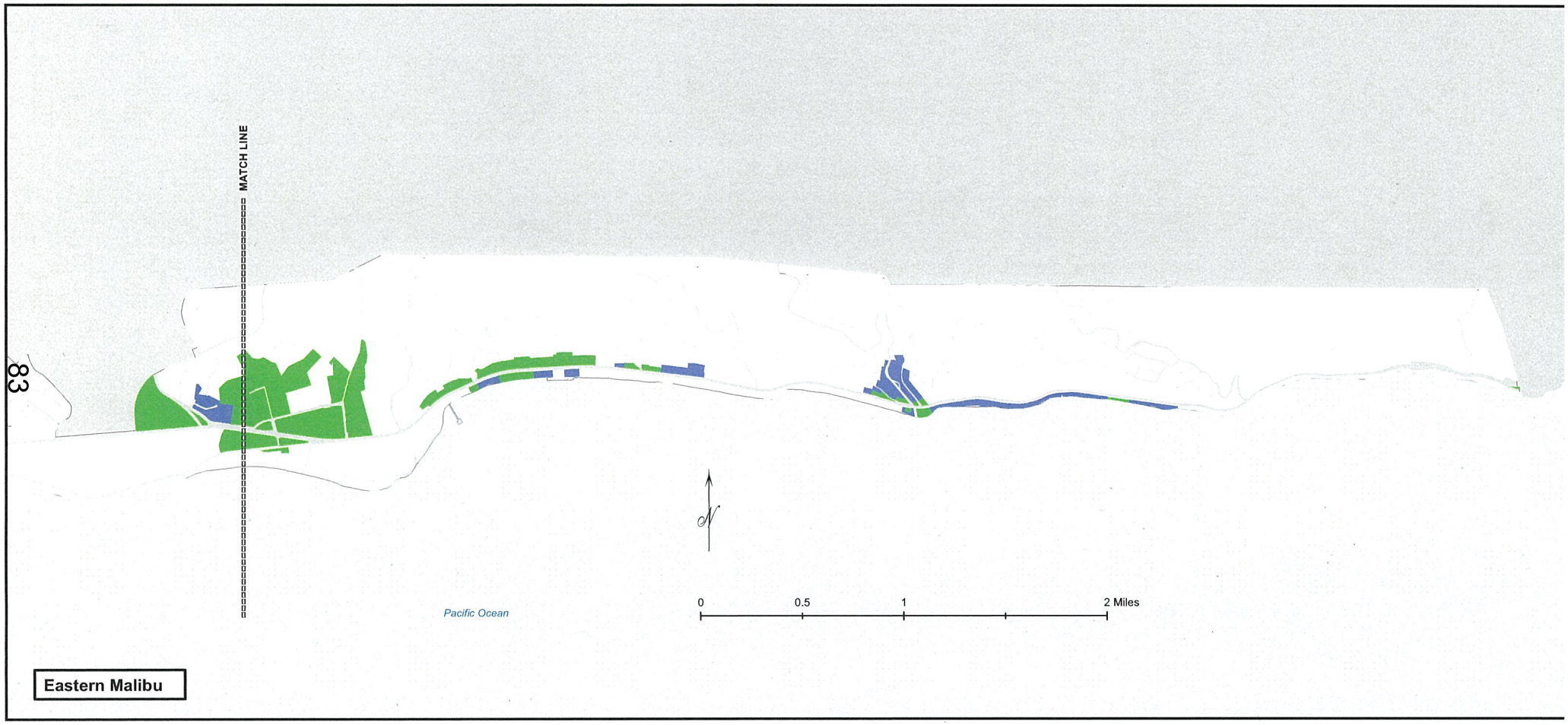
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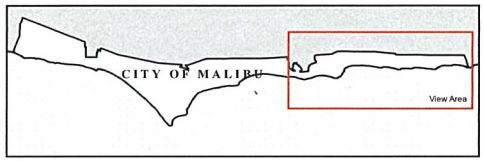
Date Prepared: 9/7/20

Map of Parcels Zoned Multifamily or Commercial



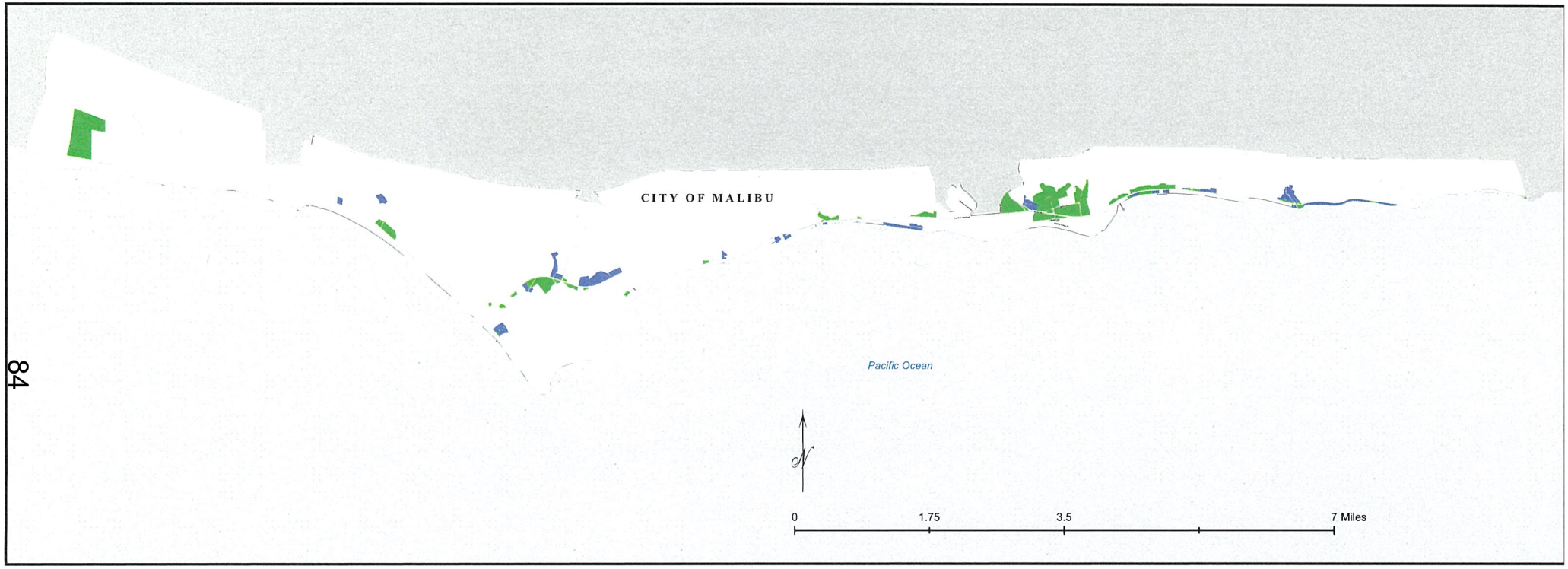
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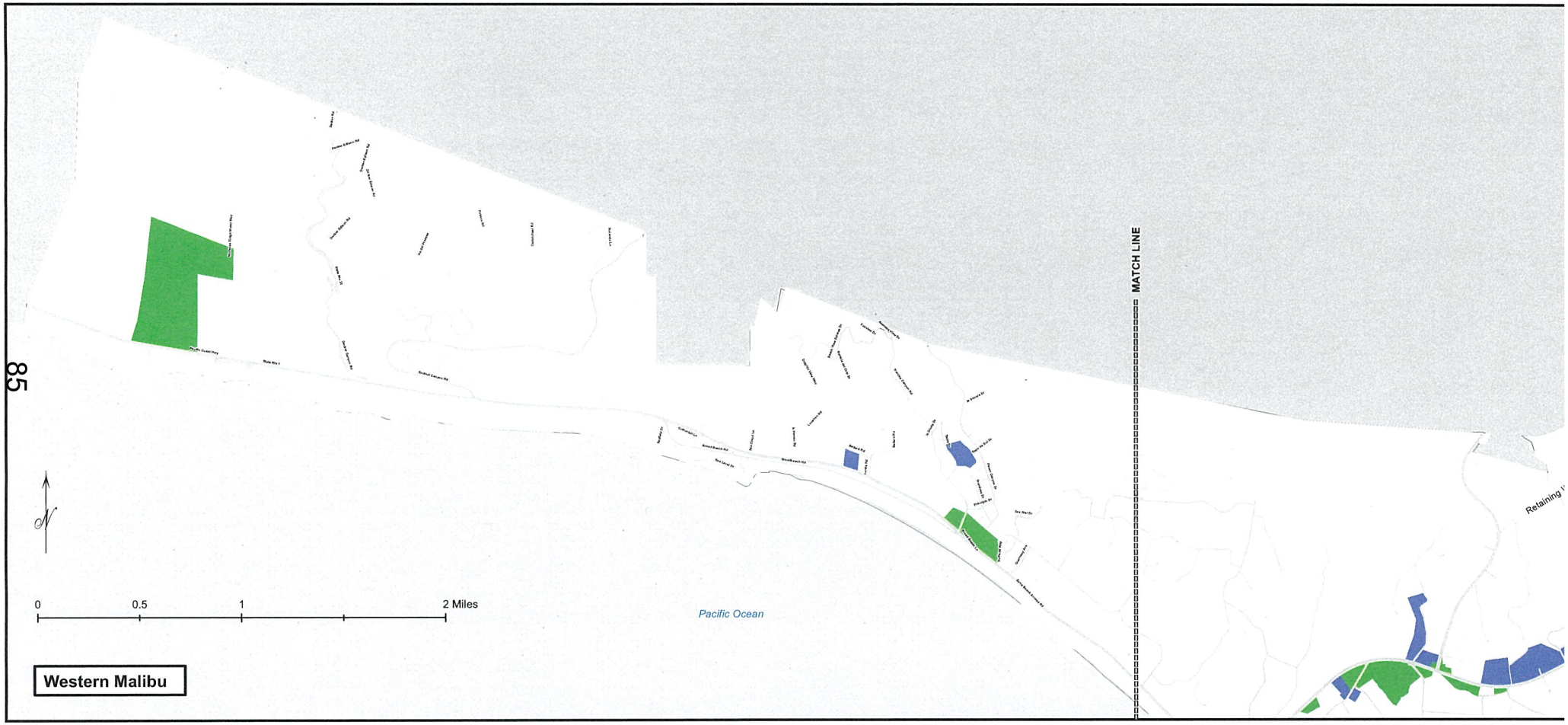
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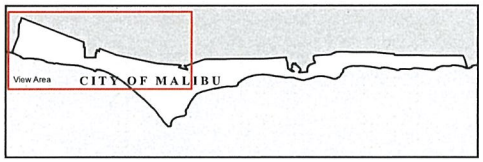
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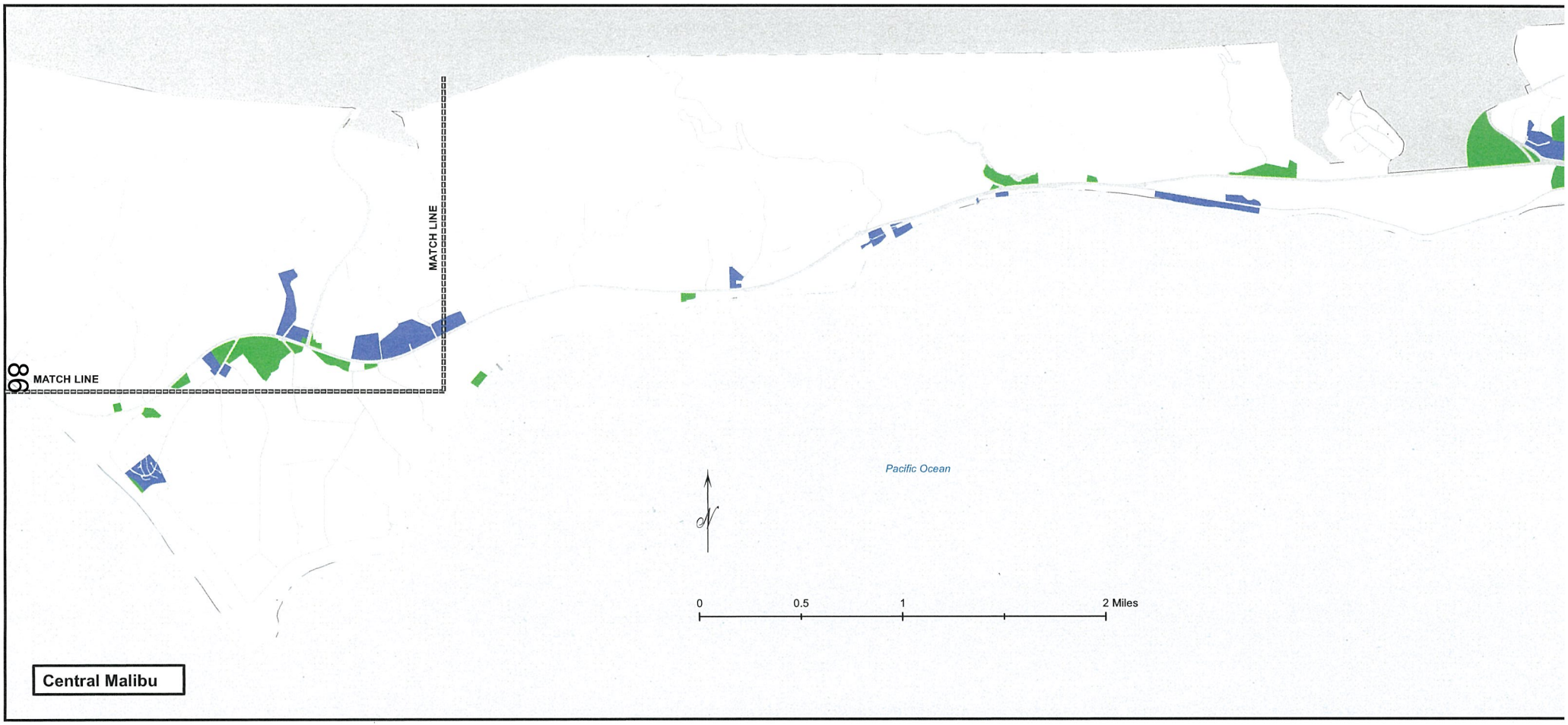
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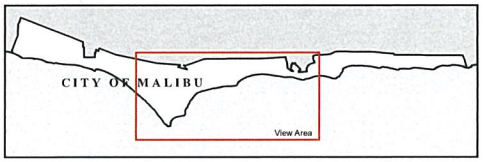
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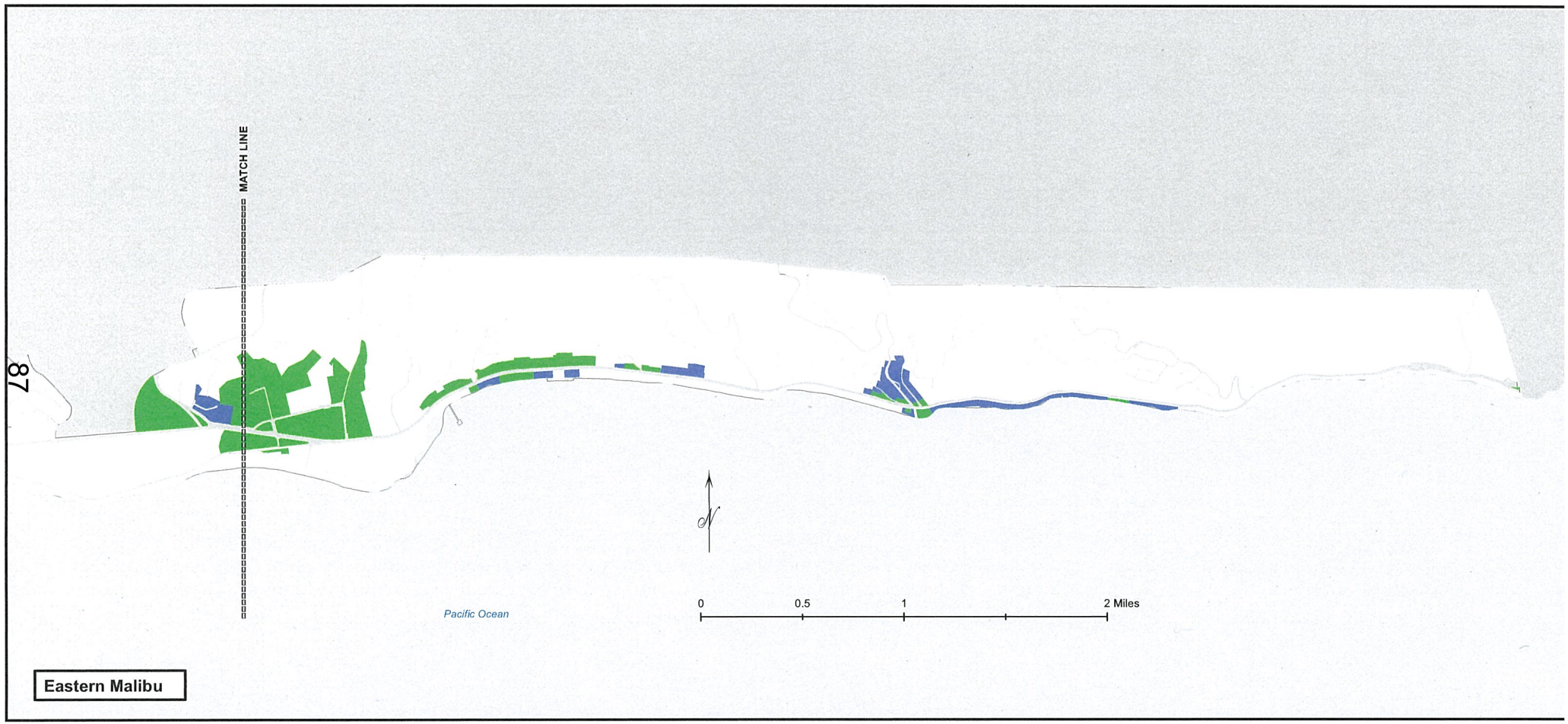
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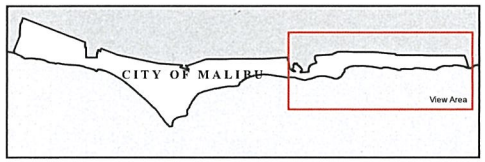
Date Prepared: 9/7/201

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Date Prepared: 9/7/2018

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **WEDNESDAY, September 26, 2018, at 5:00 p.m. in the Council Chambers, Malibu City Hall**, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

PLEASE NOTE: This hearing was originally scheduled for the September 11, 2018 City Council meeting which has been cancelled.

SHORT-TERM RENTAL ORDINANCE

ZONING TEXT AMENDMENT NO. 17-002 – On July 9, 2018, the Malibu City Council considered amendments to Title 17 (Zoning Ordinance) of the Malibu Municipal Code and the Planning Commission's recommendations regarding short-term rental of property (also known as vacation rentals) in residential and multi-family zones. At the conclusion of the hearing, Council requested changes to the draft ordinance and some additional information, including but not limited to options for making primary residency a requirement; limiting the number of short-term rental permits to one per individual, property or assessor parcel number; allowing some portion of a multi-family building to be used for short-term rental; and options for requiring a wastewater system operating permit. This information and a revised draft ordinance will be presented at a new public hearing on September 26, 2018.

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Justine Kendall, Assistant Planner (310) 456-2489, extension 301 jkendall@malibucity.org

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

A written staff report will be available at or before the hearing. All persons wishing to address the Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

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Attachment D

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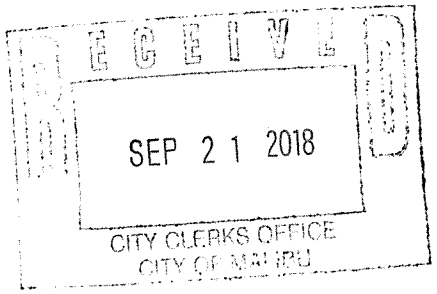
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Bonnie Blue
Planning Director

Publish Date: August 30, 2018

STATE OF CALIFORNIA -- NATURAL RESOURCES AGENCY
EDMUND G. BROWN, JR., *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



September 20, 2018

Bonnie Blue, Planning Director
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Subject: Short-term Rental Ordinance

Dear Ms. Blue:

Commission staff has reviewed the September 6, 2018 staff report regarding the subject proposed Malibu Municipal Code (MMC) amendment to establish provisions to regulate short-term rental of property citywide that is scheduled to be considered by the Malibu City Council at its September 26, 2018 hearing. We appreciate the opportunity to provide the following comments.

Based on a review of the draft ordinance language and the City's staff report, it is Commission staff's understanding that the City is considering the adoption of a ordinance that would allow for the continuance of short-term rental of residential property in single-family homes in the City and allow for the rental of a maximum of two units per multifamily apartment property within the City; would create a new permitting system where the owner of a short-term rental property must possess a valid Short-Term Rental Permit (STR Permit) and Onsite Wastewater Treatment System Operating Permit; establish limits on the number of operating permits a natural person may be issued; requirements regarding onsite parking; and enforcement protocols.

Commission staff views the City's proposed amendment as a supportable effort to provide for some regulatory controls and management provisions for short term rentals. However, we believe that vacation rental regulations in the coastal zone must occur within the context of the City's LCP. We encourage the City to submit an LCP amendment to the Commission that includes policies and provisions that reflects the subject MMC amendment regarding short-term rentals. We are happy to coordinate with City Staff and provide comments on specific LCP amendment language once it is developed.

Thank you for your attention to this matter. We appreciate the City's consideration of our comments. Please feel free to contact me if you have any questions.

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/26/18
Agenda Item # 4B

Sincerely,

Denise Venegas

Denise Venegas
Coastal Program Analyst

cc: Reva Feldman, City Manager, City of Malibu

ATTACHMENT 3

CC: Council; CM; CA; PL; Ref. Binder; Original 90 9/26/18 Agenda File

City of Malibu

City Council Policy

Policy #3

Title: General Fund Undesignated Reserve Policy

Purpose: To establish a General Fund Undesignated Reserve Policy for the Malibu City Government.

Policy Statement:

The City of Malibu's goal is to maintain a minimum amount in the General Fund of at least fifty (50) percent of budgeted fiscal year expenditures for its General Fund.

Implementation:

Each fiscal year, during the budgeting process, the minimum reserve will be re-evaluated by the City Council to determine if the reserve amount is adequate based on economic conditions of the City and/or region.

The City Council shall receive regular reports on the fund balances of all city funds.

Should the fund balance of the General Fund fall below the minimum reserve level, the City Manager shall prepare a plan for consideration by the City Council to rebuild the fund balance during the next budgeting process.

Date Adopted:

May 6, 1997

Date Amended:

November 28, 2011

Recycled Paper

City of Malibu

DRAFT - Financial Analysis

City Council Presentation – October 28, 2019

RAFTELIS

Agenda

- Current Situation
- Financial Model Functionality
- Key Assumptions
  - Woolsey Fire
  - Short-Term Rentals
- Status Quo
- Scenarios
- Key Take Away

Current Situation

- Starting from a strong financial position
- Woolsey Fire had major impact
  - Reduced revenues
  - Significant response and rebuild costs
- Evaluating a ban on short-term rentals

The City engaged Raftelis to develop a financial planning model and analyze financial impacts of the Woolsey Fire and potential short-term rental ban

Process

- Obtain critical data
- Review and analyze data
  - Most importantly the City's current and past budgets
- Develop assumptions to forecast all revenues and expenses
- Validate assumptions with City staff
- Build the financial planning model
- Validate the model with City staff
- Present findings

Model Functionality

- The model takes into account
  - Impacts from Woolsey Fire
  - Impacts from a potential short-term rental ban
- The model can evaluate
  - Cost of the Woolsey Fire
  - Cost of partial and full short-term rental ban
- The model dashboards
  - Financial Plan
  - Fund Balance
  - Revenues and Expenditures

Budget Areas Evaluated

- Revenues
  - Property tax
  - TOT and all other taxes
  - Licenses and permits
  - Fines and forfeitures
  - FEMA/OES and other government revenues
  - Service charges
  - Interest earnings and use fees
  - Miscellaneous revenues
- Expenditures
  - All City departments
  - Fire rebuild
  - Storm response
  - Disaster related capital projects
  - City's capital improvement plan

Other Items Evaluated

- Revenues
  - Increase in registration revenues due to a partial short-term rental ban
  - Increase in short-term rental penalties due to short-term rental ban
- Expenditures
  - Increased enforcement costs due to a partial or short-term rental ban
  - Potential increase in legal costs due to a full short-term rental ban

Insufficient Data to Quantify:

- "Trickle down effect" of short-term rental ban scenarios
- Possible impact to sales tax of short-term rental ban scenarios
- Potential impact to property values of short-term rental ban scenarios

Assumptions

- Informed, reasonable, and conservative
- Revenues
  - Historical property tax growth rates
  - CPI
  - Historical trends
  - Special assumptions based on inputs and scenarios
- Expenditures
  - CPI
  - Historical trends
  - Special assumptions based on inputs and scenarios
  - Actual debt service



Financial Policies

- Reserve Targets
  - Fund Balance
    - City Council Policy – 50% of operating budget
    - City Council Goal – 65%
  - The City has been and remains committed to maintaining a healthy general fund reserve in recognition of the City's disaster prone environment



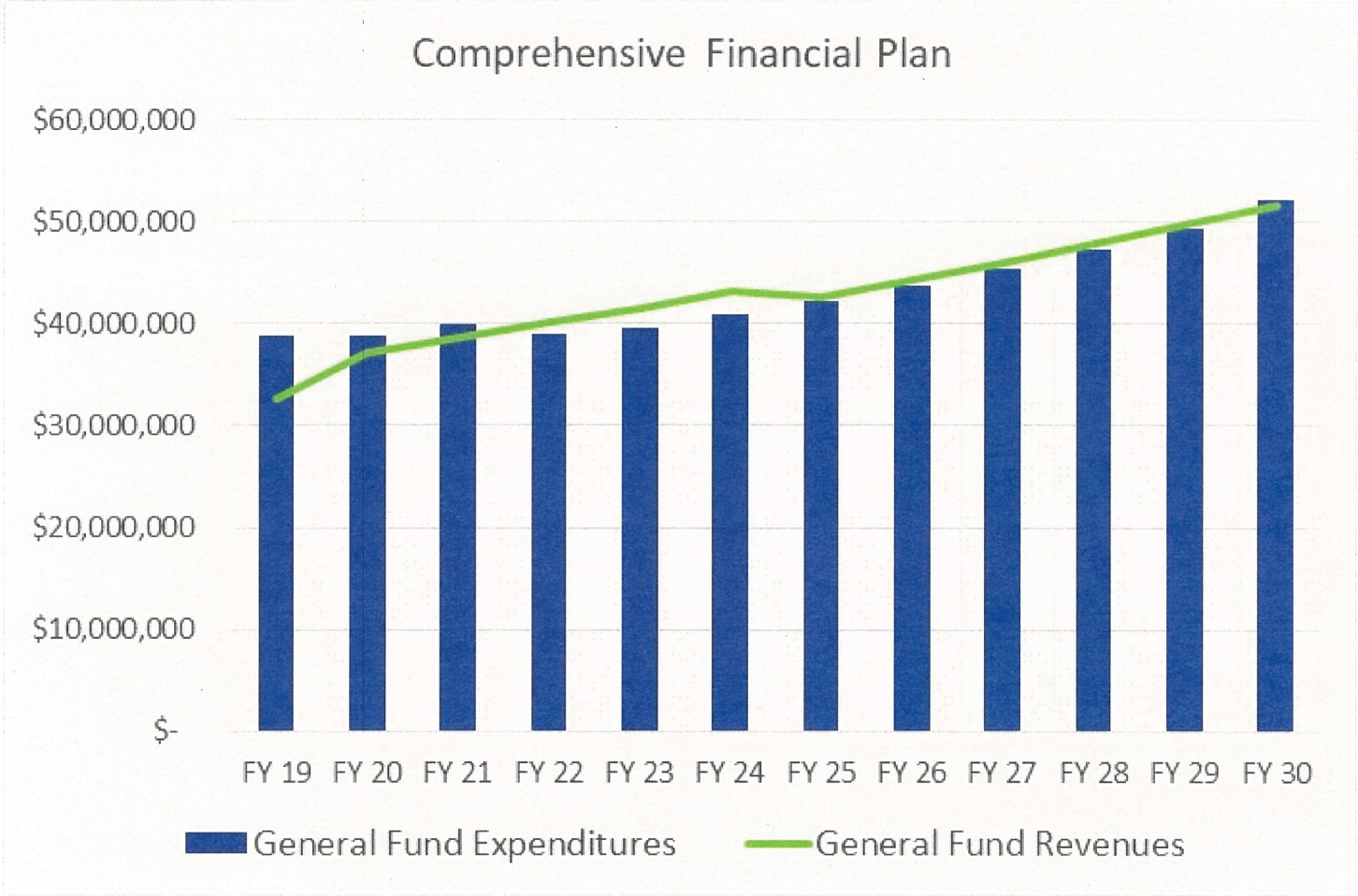
Status Quo Summary

- Property value growth rate of 5.7%
  - Based upon 2012 to 2019 growth rate
- Fees increase at CPI
- Impacts of Woolsey Fire
  - Major general fund operating expenditures continue through 2023
  - Additional flood/debris flow mitigation through 2026
  - FEMA reimbursements over 5 years beginning in FY 2021
- No short-term rental ban
- Debt service increases substantially due to 2018 COP
  - For the purchase of vacant land
- Public Safety
  - Recent increases to level of service flow into forecast
  - Increase in FY 2023 due to new Sheriff station

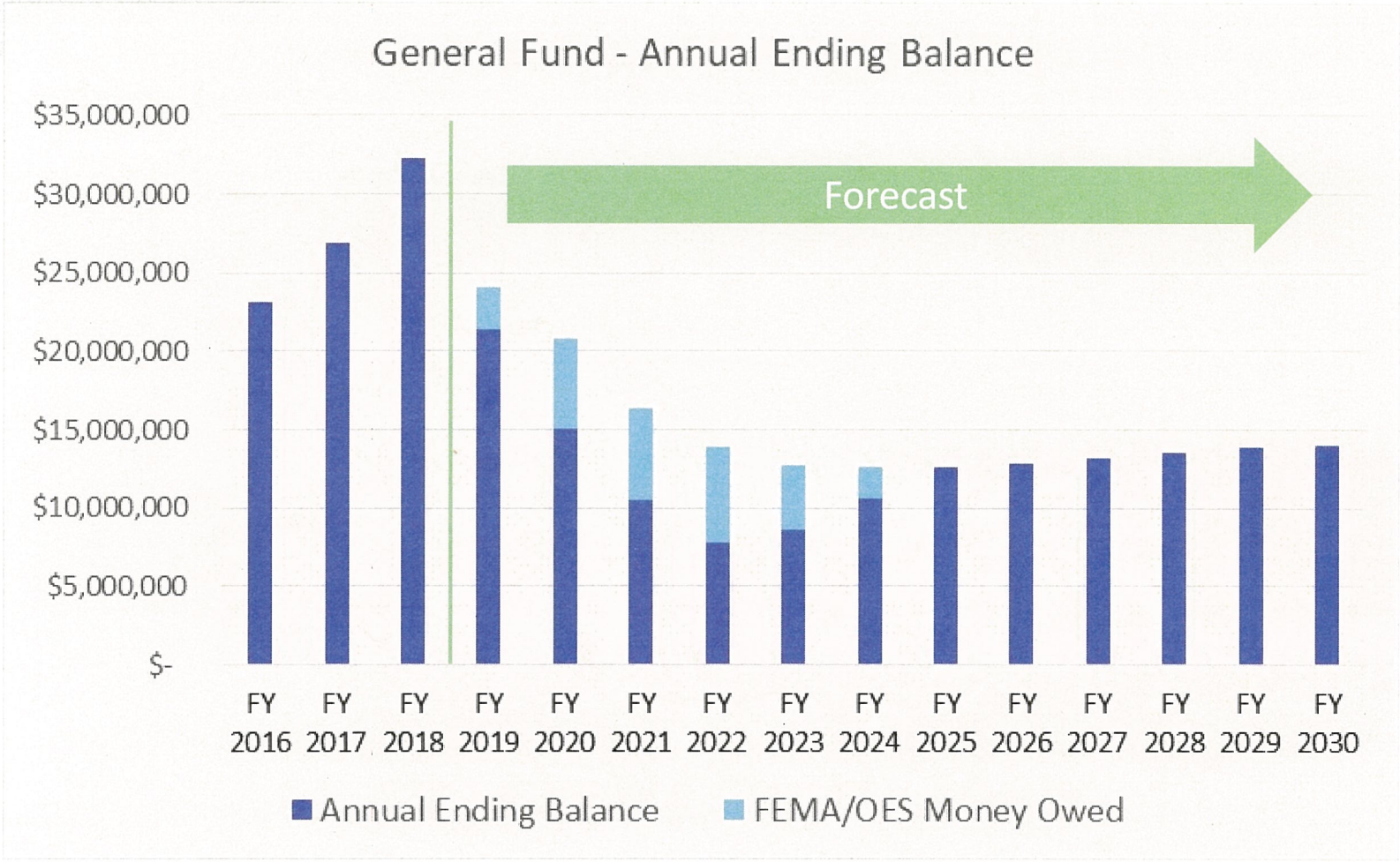
Change in Property Tax
From 2003 to 2020



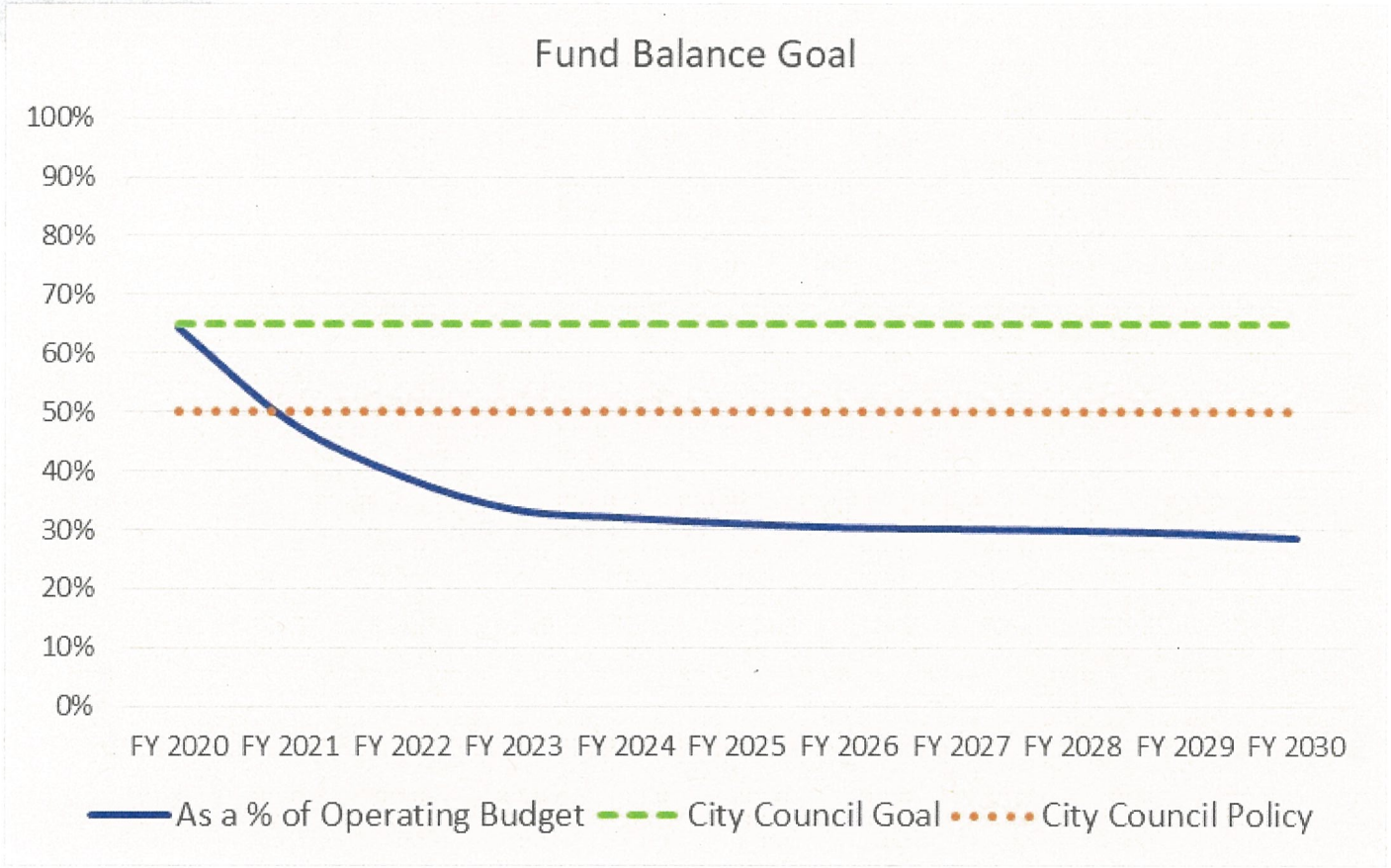
Status Quo - Financial Plan



Status Quo – Ending Fund Balance



Status Quo – Fund Balance Goal



Key Observations – Status Quo

- Property Tax revenue assumptions subject to high degree of variability
- Un-reimbursed Woolsey Fire costs reduce General Fund balance by $13.4 million from FY 2019 – FY 2025
- Increase in COP debt service for the purchase of vacant land and expected public safety costs impact City's ability to restore general fund reserves

Assumptions – Woolsey Fire

- Property Tax Values
  - 3 Year Recovery
- Capital
  - FEMA/OES reimbursable costs
  - Non-reimbursable General Fund costs
- Operating
  - Fire rebuild costs
    - Increase consultant cost
  - Storm response costs
- "Like for Like" Permit Waivers
  - Due to waivers being offered in FY 2020, study assumed historical average for permit revenues
  - City may actually see an increase in permit revenues due to residents who do not rebuild "Like for Like."
  - Revenue impacts from permits associated with rebuilds is difficult to quantify



Woolsey Fire – Impacts Overview

Woolsey Fire Recovery Table	FY19 - FY25 Total
CIP General Fund - Not Reimbursable	$ 1,257,220
CIP FEMA/OES - Reimbursable	10,080,001
3002 Fire Rebuilds	9,835,737
3002 Storm Response	2,300,000
Total Cost	**$ 23,472,958**
Projected FEMA/OES Reimbursements	**$ 10,080,001**
Net Cost to the City	**$ 13,392,957**

Potential Short-Term Rental Ban Assumptions

- Status Quo Assumption
  - TOT revenues increase from pre-fire levels based on CPI
- Partial Ban Assumptions
  - 50% or 25% reduction to STR-TOT revenues in FY 2021
  - Lost revenue percentages designed to approximate the level of restrictiveness of potential regulation/ban
- Full Ban Assumptions
  - 100% reduction to STR-TOT revenues in FY 2021
- For All Ban Scenarios the Study Evaluated
  - Potential impacts to STR registration and enforcement penalty revenues
  - Potential costs of additional code enforcement staffing

10 Year Impact on Short-Term Rental Ban
FY 2021 to FY 2030

	Estimated STR Revenue	Net Impact vs. Status Quo
No Ban	$ 27,600,000	
Partial Ban 25%	$ 22,659,000	$ (6,300,000)
Partial Ban 50%	$ 15,792,000	$ (13,167,000)
Full Ban	$251,000	$ (30,036,000)

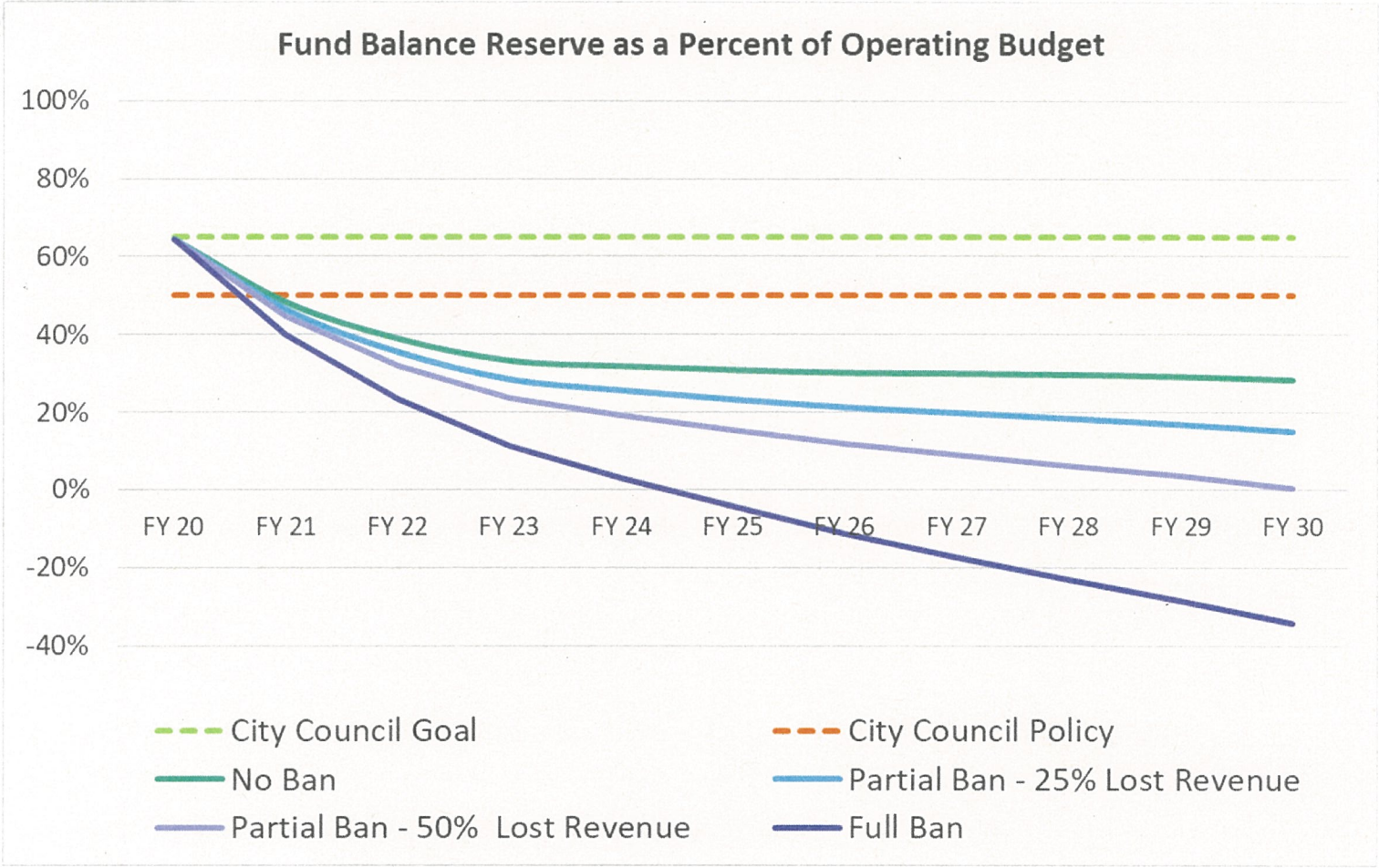
Revenues Include:

- STR-TOT
- STR Registrations
- STR Penalties



Fund Balance Goal – STR Ban Scenarios

DRAFT



Key Take Away

- City needs to carefully monitor and forecast property tax revenues due to variability
- A partial or full short-term rental ban could significantly impact the City's finances
  - Already strained by the vacant land purchase, Woolsey Fire, winter storms and the fire rebuild
- City should work to minimize non-reimbursable one-time Woolsey costs
  - Currently estimated at $13.4 million from FY19 – FY25
- Consider limiting service level enhancements until full impact of Woolsey Fire determined
- May need to defer General Fund CIP projects



Thank you!

Transient Occupancy Tax Rates Throughout California

City	TOT Tax Rates
Long Beach	12-15%
Anaheim	15%
Beverly Hills	14%
Los Angeles	14%
Marina	14%
San Francisco	14%
Santa Monica	14%
Solana Beach	13%
Agoura Hills	12%
Calabasas	12%
Carpinteria	12%
County of Los Angeles	12%
County of Santa Barbara	12%
El Segundo	12%
Glendale	12%
Goleta	12%
Half Moon Bay	12%
Hermosa Beach	12%
Laguna Beach	12%
Malibu	12%
Pacific Grove	12%
Redondo Beach	12%
Seaside	12%
Sonoma	12%
Santa Cruz	11%
Torrance	11%
Carlsbad	10%
Carmel	10%
Chula Vista	10%
Dana Point	10%

Transient Occupancy Tax Rates Throughout California

City	TOT Tax Rates
Manhattan Beach*	10%
Monterey	10%
Morro Bay	10%
Oceanside	10%
Oxnard	10%
Pismo Beach	10%
Rancho Palos Verdes	10%
San Clemente	10%
San Luis Obispo	10%
San Mateo	10%
Santa Barbara	10%
Thousand Oaks	10%
Ventura	10%
Westlake Village	10%
Newport Beach	9%
Laguna Niguel	8%
Pasadena	7%
San Diego	6%
Hidden Hills	n/a

*Manhattan Beach is planning to increase rates to 12% May 1, 2020

ATTACHMENT 6

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105- 2219
VOICE (415) 904- 5200
FAX (415) 904- 5400
TDD (415) 597-5885

December 6, 2016

TO: Coastal Planning/Community Development Directors

SUBJECT: Short-Term/Vacation Rentals in the California Coastal Zone

Dear Planning/Community Development Director:

Your community and others state and nationwide are grappling with the use of private residential areas for short-term overnight accommodations. This practice, commonly referred to as vacation rentals (or short-term rentals), has recently elicited significant controversy over the proper use of private residential stock within residential areas. Although vacation rentals have historically been part of our beach communities for many decades, the more recent introduction of online booking sites has resulted in a surge of vacation rental activity, and has led to an increased focus on how best to regulate these rentals.

The Commission has heard a variety of viewpoints on this topic. Some argue that private residences should remain solely for the exclusive use of those who reside there in order to foster neighborhood stability and residential character, as well as to ensure adequate housing stock in the community. Others argue that vacation rentals should be encouraged because they often provide more affordable options for families and other coastal visitors of a wide range of economic backgrounds to enjoy the California coastline. In addition, vacation rentals allow property owners an avenue to use their residence as a source of supplemental income. There are no easy answers to the vexing issues and questions of how best to regulate short-term/vacation rentals. The purpose of this letter is to provide guidance and direction on the appropriate regulatory approach to vacation rentals in your coastal zone areas moving forward.

First, please note that vacation rental regulation in the coastal zone must occur within the context of your local coastal program (LCP) and/or be authorized pursuant to a coastal development permit (CDP). The regulation of short-term/vacation rentals represents a change in the intensity of use and of access to the shoreline, and thus constitutes development to which the Coastal Act and LCPs must apply. We do not believe that regulation outside of that LCP/CDP context (e.g., outright vacation rental bans through other local processes) is legally enforceable in the coastal zone, and we strongly encourage your community to pursue vacation rental regulation through your LCP.

The Commission has experience in this arena, and has helped several communities develop successful LCP vacation rental rules and programs (e.g., certified programs in San Luis Obispo and Santa Cruz Counties going back over a decade; see a summary of such LCP ordinances on our website at:
https://documents.coastal.ca.gov/assets/la/Sample_of_Commission_Actions_on_Short_Term_Rentals

ATTACHMENT 7

.pdf). We suggest that you pay particular attention to the extent to which any such regulations are susceptible to monitoring and enforcement since these programs present some challenges in those regards. I encourage you to contact your local district Coastal Commission office for help in such efforts.

Second, the Commission has not historically supported blanket vacation rental bans under the Coastal Act, and has found such programs in the past not to be consistent with the Coastal Act. In such cases the Commission has found that vacation rental prohibitions unduly limit public recreational access opportunities inconsistent with the Coastal Act. However, in situations where a community already provides an ample supply of vacation rentals and where further proliferation of vacation rentals would impair community character or other coastal resources, restrictions may be appropriate. In any case, we strongly support developing reasonable and balanced regulations that can be tailored to address the specific issues within your community to allow for vacation rentals, while providing appropriate regulation to ensure consistency with applicable laws. We believe that appropriate rules and regulations can address issues and avoid potential problems, and that the end result can be an appropriate balancing of various viewpoints and interests. For example, the Commission has historically supported vacation rental regulations that provide for all of the following:

- Limits on the total number of vacation rentals allowed within certain areas (e.g., by neighborhood, by communitywide ratio, etc.).
- Limits on the types of housing that can be used as a vacation rental (e.g., disallowing vacation rentals in affordable housing contexts, etc.).
- Limits on maximum vacation rental occupancies.
- Limits on the amount of time a residential unit can be used as a vacation rental during a given time period.
- Requirements for 24-hour management and/or response, whether onsite or within a certain distance of the vacation rental.
- Requirements regarding onsite parking, garbage, and noise.
- Signage requirements, including posting 24-hour contact information, posting requirements and restrictions within units, and incorporating operational requirements and violation consequences (e.g., forfeit of deposits, etc.) in rental agreements.
- Payment of transient occupancy tax (TOT).
- Enforcement protocols, including requirements for responding to complaints and enforcing against violations of vacation rental requirements, including providing for revocation of vacation rental permits in certain circumstances.

These and/or other provisions may be applicable in your community. We believe that vacation rentals provide an important source of visitor accommodations in the coastal zone, especially for larger families and groups and for people of a wide range of economic backgrounds. At the same time we also recognize and understand legitimate community concerns associated with the potential adverse impacts associated with vacation rentals, including with respect to community character and noise

and traffic impacts. We also recognize concerns regarding the impact of vacation rentals on local housing stock and affordability. Thus, in our view it is not an 'all or none' proposition. Rather, the Commission's obligation is to work with local governments to accommodate vacation rentals in a way that respects local context. Through application of reasonable enforceable LCP regulations on such rentals, Coastal Act provisions requiring that public recreational access opportunities be maximized can be achieved while also addressing potential concerns and issues.

We look forward to working with you and your community to regulate vacation rentals through your LCP in a balanced way that allows for them in a manner that is compatible with community character, including to avoid oversaturation of vacation rentals in any one neighborhood or locale, and that provides these important overnight options for visitors to our coastal areas. These types of LCP programs have proven successful in other communities, and we would suggest that their approach can serve as a model and starting place for your community moving forward. Please contact your local district Coastal Commission office for help in such efforts.

Sincerely,



STEVE KINSEY, Chair
California Coastal Commission

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

October 25, 2019

RE: Item 5A---Opposition to a proposed ban on Short-Term Rentals in the City of Malibu

Dear Honorable Mayor and City Councilmembers:

As a proud property owner in Malibu of over 30 years, it's of critical importance that I go on record in strong opposition to any type of ban on short-term rentals ("STR") in the City of Malibu. The reason for my opposition is both of a personal nature as well as out of serious concern for the City's financial vitality and long-term economic health.

I have owned my multifamily property on Malibu Road since 1989 and lived in it until I needed to move for work and family reasons. I take great pride in my Malibu Road property and being a responsible steward of this community that I hold so dear. That's why I have long employed a property manager who lives nearby to ensure that the property and visitors are closely monitored. In addition, I have strict rules in place for the people renting my units. I limit the number of guests to two people per bedroom, I do not allow parties or events, and I permit the use of my accommodations only to confirmed guests on the property.

My guests are mostly couples and families from around the country as well as international visitors who are seeking more affordable accommodations. Additionally, the space and amenities an apartment can offer are often better than those of a hotel/motel (and as you know there are very few of those in Malibu). **In the three years that I've rented out my apartments on a short-term basis, I have not received a single complaint from any of my neighbors.**

While a ban on STRs would have an enormous negative financial impact to me and my family personally, the ramifications to the City's local economy would be a disaster. To quote the City's own staff report, **"the financial analysis demonstrates that a ban will have a financial impact on the City's General Fund over the next ten years with a loss of approximately $30 million."** This report, while useful in showing the general impacts, does not even take into consideration the potential loss of sales tax revenue that is generated by STR users who spend their money at local Malibu establishments---meaning the actual impacts to the local Malibu economy are even worse than forecasted in the City's study. UNACCEPTABLE!

Malibu residents, many of whom are either unaware or simply don't care about this debate, do not deserve to be impacted by over-regulation that is simply unnecessary, especially at such a vulnerable time after the recent fires. A ban on STRs is trying to solve a problem that does not exist. However, don't take my word for it. On October 18, 2019 I spoke to the City's own Senior Code Enforcement Officer, Doug Cleavenger, who fields complaints related to STRs. He stated the following:

- *There were approximately 5 complaints over the last 12 months related to STRs.*
- *Only a very small number of unpermitted special events are related to STRs.*
- *Within the entire city of Malibu, there are two houses that receive repeated complaints of excessive cars on the street and/or noise.*
- *The vast majority of noise complaints are related to unpermitted parties.*

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

Understanding the devastating financial impacts to both individual property owners and the City, and the complete lack of evidence to support such onerous regulations (as stated by the City's own enforcement), decision-makers need to be mindful about other details in a new ordinance as well.

For example, placing limits on the number of units that can be used as STRs in a multifamily property is fine, but that number needs to be within reason. Simply picking an arbitrary percentage as a "one size fits all" limitation does not work when you contrast a property with four units vs. a property with 40 units. Seeking to limit the number of STRs in buildings with a significant number of units makes sense. However, the majority of multifamily properties in Malibu only have 2-4 units total. So to place a blanket percentage limitation treats those small properties very differently than larger ones. For example, placing a 25% limit on STRs per property would allow a 40-unit building to have 10 STRs, while a 4-unit building would only be allowed one STR. And 25% of a 3-unit building is zero STRs. This would be an unintended consequence that is simply unfair. All multifamily properties should be allowed up to the same maximum number of STRs.

Another point of concern I noted in the staff report is a discussion about only allowing STRs during certain months. This feels like a thinly veiled attempt at a ban given that this makes the entire STR business model unfeasible and unsustainable. What happens to my property during the half-year "off" seasons? Long-term renters typically want a one-year term. Are we just supposed to let our units sit vacant for six months? This idea won't work.

Lastly, it is incumbent upon the City to consider the costs/benefits of visitors to Malibu, and not just those who choose to rent here long-term. More affordable short-term rental options for visitors is a major concern of the Coastal Commission as it is the Coastal Act's mandate to maximize public access to the coast.

Permitting short-term rentals in multifamily dwellings makes a wider variety of options and price ranges available to people who would otherwise not be able to afford to stay in Malibu. The 100 (+/-) hotel/motel rooms currently in Malibu seriously underserve the approximately 12-15 million people who visit Malibu annually. Short-term rentals, especially in multifamily units, provide needed, less expensive alternatives to visitors.

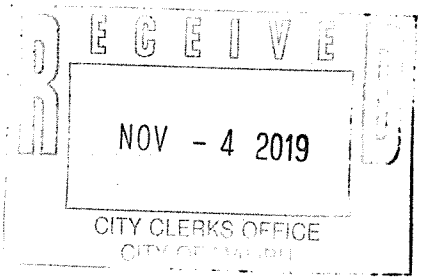
As a tax-paying, longtime Malibu property owner, I urge the City Council to oppose a ban on short-term rentals, and direct staff to come back with a draft ordinance that will preserve our City's strong economy, and help us continue to heal and re-build. It's simply unfair and unfounded to place such unnecessary financial burdens on longstanding property owners that have always and continue to follow the rules.

Best regards,

Andrew Gombiner

Kelsey Pettijohn

Subject: Your request for additional questions



From: Anne
Sent: Monday, November 4, 2019 6:00 AM
To: Justine Kendall <jkendall@malibucity.org>
Subject: Your request for additional questions

Thanks for your reply, Justine. I do have some questions.

1) Please tell me if I am correct in my understanding that I will soon need to prove a full-time residency of 185 days a year with a drivers license or utility bills to my Malibu address. Failing that, a part-time residency will restrict my short-term rentals to between April 1 and September 30, foregoing the high seasons of Thanksgiving, Christmas and Spring Break!

And if I do need the summer income to afford my property, I or a property manager must live on the premises during the vacationers' stay for an airbnb "sharing" arrangement vs. the current guest family's enjoyment of the privacy and security of the entire gated property?

2) May I take new bookings without these restrictions until the legislation is passed?

3) Will I be able to honor all bookings (whether new or old) after the legislation is passed as I already have STR bookings for the entire property in February and August of 2020!

4) Although I was told upon purchasing my property in 2001 that my beachfront property was zoned for not more than one family occupancy, that the zoning will be changed. So that if I choose, I will be permitted to convert the garage to an Accessory Dwelling Unit (ADU)?

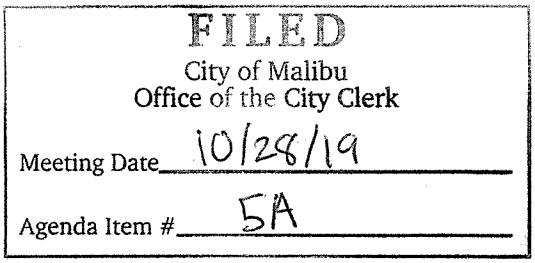
5) All short-term rental applicants shall be required to acquire an OWTS operating permit at a cost of $400 to $1,000, with remedial repairs to residential OWTS varying from $1,000 to $20,000?

6) And, finally, before I am forced to sell my Malibu beach home which I've loved for 20 years and kept as a vacation rental so I could vacation there myself, please tell me: is it possible that a newly-elected City Council would overturn this decision?

Look forward to hearing from you and thanks again to you, Patricia and Mary for being there for all the citizens of Malibu.

Best always,

Anne



On Oct 31, 2019, at 10:04 AM, Justine Kendall <jkendall@malibucity.org> wrote:

CC: Council; CM; CA; PL; original to 10/28/19 Agenda File

Hi Anne,

Patricia forwarded your email to me. The City Council didn't actually pass any legislation Monday night; rather they confirmed that they would like the ordinance that was presented and discussed on September 26 of last year to be brought back with a few minor edits for adoption. In order for that to take place there will be a first reading of the ordinance, then a second reading where it will be a officially adopted. In addition, they asked staff to come back with an agenda item (for that same meeting at which the first reading of the ordinance similar to the 9/26/2018 ordinance will occur) for City Council to initiate (i.e. tell staff to go ahead) a Zoning Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) in line with the Santa Monica ordinance regarding regulation of home-sharing and short-term rentals. Once those (the ZTA and LCPA) are passed, the 9/26/2018 related ordinance will superseded.

A copy of the 9/26/2018 ordinance is available here. Below is the formal action statement from the meeting:

On October 28, the City Council directed staff to: 1) initiate a Zoning Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals per direction provided by Council including adopting provisions similar to Santa Monica's homesharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and 2) bring back an updated version of the September 26, 2018, draft ordinance to the City Council for adoption, with the understanding it would be superseded when the new ZTA and LCPA were approved.

Feel free to give me a call if you'd like to talk about this more!
Justine

Justine Kendall | Assistant Planner | City of Malibu
Address: 23825 Stuart Ranch Road, Malibu, CA 90265
Phone: (310) 456-2489 ext. 301
Fax: (310) 456-7650
Email: jkendall@malibucity.org

Connect with the City of Malibu!
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Heather Glaser

From: Arash Parsee
Sent: Friday, October 25, 2019 11:17 AM
To: Patricia Salazar
Cc: cityclerk
Subject: Re: Malibu Short-Term Rentals - October 28, 2019 Meeting

RECEIVED
Oct 25 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Hi Patricia,

Thank you for the information. Ahead of Monday's City Council meeting, I'd once again like to voice my opposition to the prohibition of short-term rentals in Malibu. I've stated before that I oppose prohibition for a variety of reasons, many of which have already been expressed by other residents. Now, in the aftermath of the Woolsey Fire, I believe that the financial ramifications would be too costly for the City to bear.

To reiterate:

• It would deprive the City of millions in dollars in revenue currently generated by Transient Occupancy Taxes.

• I am concerned that revenue lost from TOT would somehow be levied on or otherwise affect residents.

• It would have a negative impact on tourism, given that there are limited lodging options outside of short-term rentals, which would in turn negatively impact local businesses.

• An attempt to ban short term rentals would expose the City to litigation, further straining valuable resources.

Additionally, it strips our rights as homeowners to use our property in a manner that best suits our interests (provided, of course, that it does not unduly disturb others), and it paints all homeowners with a broad brush, penalizing those that follow the rules and treat the community with respect for the crimes of the few that don't.

I do understand a need to regulate this growing phenomenon, but I believe the outright prohibition of it is extreme and could only harm the City and its residents. Furthermore, I believe that the short-term rental ordinance proposed in November of 2017 (Resolution No. 17-83) provided a reasonable, if not ideal, compromise to address the concerns that have been expressed.

In conclusion, I'd previously stated that short-term rentals - when operated properly, and with respect to the City's guidelines - are a win-win benefitting both the City and its residents. Now, I believe they are a necessary part of the City's efforts to rebuild and recover after the Woolsey Fire, and to be better prepared to withstand any potential natural disasters in the future. I hope that, given the facts, the City Council agrees.

Thank you for your time.

Sincerely,
Christopher Arash Parsee

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

On Oct 23, 2019, at 2:10 PM, Patricia Salazar <psalazar@malibucity.org

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

MALIBU CITY COUNCIL MEETING - OCTOBER 28, 2019
SHORT-TERM RENTALS

The Malibu City Council will discuss short-term rentals at its next meeting:

Malibu City Council Adjourned Regular Meeting
Monday, October 28, 2019
4:00 PM*
Malibu City Hall - Council Chambers
23825 Stuart Ranch Road

* Note earlier meeting start time. The City expects a large number of public speakers and wants to ensure that everyone has the opportunity to speak and that the City Council has time to to deliberate.

The City Council will consider the following specific topics:

1. The financial analysis on the implications and potential impacts of a ban on short-term rentals;
2. Options and procedures for regulating and banning short-term rentals;
3. Whether an amendment to the Local Coastal Program (LCP) is necessary for a short-term rental ban;
4. Approaches of other coastal cities and associated litigation in those cities; and
5. Provide direction to staff on a short-term rental ordinance.

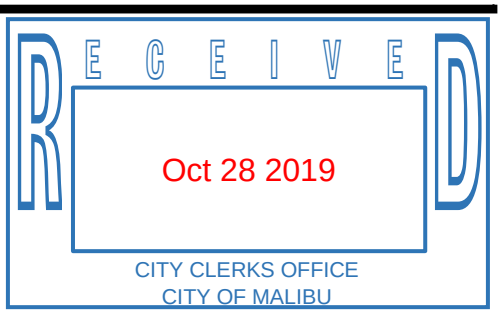
View the meeting agenda and staff report (see Item No. 5A).

Anyone unable to attend the meeting may watch live or later on-demand at: https://www.MalibuCity.org/TV or https://www.youtube.com/user/CityofMalibu/videos.

Comments may be submitted by email to CityClerk@MalibuCity.org.
For more information on short-term rentals, visit the City's website at www.MalibuCity.org/STR.

Heather Glaser

Subject: Malibu Short-Term Rentals - Oct. 28, 2019 Meeting



From: Arash Parsee
Date: October 25, 2019 at 12:47:41 PM PDT
To: Skylar Peak <speak@malibucity.org>
Subject: Malibu Short-Term Rentals - Oct. 28, 2019 Meeting

Dear Councilmember Peak,

Ahead of Monday's City Council meeting, I'd once again like to voice my opposition to the prohibition of short-term rentals in Malibu. I've stated before that I oppose prohibition for a variety of reasons, many of which have already been expressed by other residents. Now, in the aftermath of the Woolsey Fire, I believe that the financial ramifications would be too costly for the City to bear.

To reiterate:

• It would deprive the City of millions in dollars in revenue currently generated by Transient Occupancy Taxes.

• I am concerned that revenue lost from TOT would somehow be levied on or otherwise affect residents.

• It would have a negative impact on tourism, given that there are limited lodging options outside of short-term rentals, which would in turn negatively impact local businesses.

• An attempt to ban short term rentals would expose the City to litigation, further straining valuable resources.

Additionally, it strips our rights as homeowners to use our property in a manner that best suits our interests (provided, of course, that it does not unduly disturb others), and it paints all homeowners with a broad brush, penalizing those that follow the rules and treat the community with respect for the crimes of the few that don't.

I do understand a need to regulate this growing phenomenon, but I believe the outright prohibition of it is extreme and could only harm the City and its residents. Furthermore, I believe that the short-term rental ordinance proposed in November of 2017 (Resolution No. 17-83) provided a reasonable, if not ideal, compromise to address the concerns that have been expressed.

In conclusion, I previously stated that short-term rentals - when operated properly, and with respect to the City's guidelines - are a win-win benefitting both the City and its residents. Now, I believe they are a necessary part of the City's efforts to rebuild and recover after the Woolsey Fire, and to be better prepared to withstand any potential natural disasters in the future. I hope that, given the facts, the City Council agrees.

Thank you for your time.

Sincerely,
Christopher Arash Parsee

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/282019
Agenda Item # 5.A.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

Heather Glaser

From: anthony pickett
Sent: Friday, October 25, 2019 2:44 PM
To: cityclerk
Subject: Short Term Rental van



Dear council members.

As a resident of Malibu for over 20 years, I would urge you to reconsider any ban on short term rentals in The City of Malibu. People come from all over the world to visit Malibu. There is little to no local hotel capacity to accommodate these great travelers. The infusion of dollars that they bring prop up the local economy and support countless small businesses. The lack of parkingin Malibu prohibits local visitors from coming to Malibu. These patrons simply choose to stay and spend money in Santa Monica or other beach cities . Those cities welcome their patronage. If the issue is disturbances from renters , then there are other solutions to prohibit nuisance renters, which would include ideas such as , fines and penalties to individual home owners. Violators , would be subject to lose their rights to rent in the future ; also stepped up enforcement and curfews could provide solutions.

In summary, I urge the Council to consider the fact that tourism is a boon to our local economy. With online shopping and the advent of food delivery services , there will be less reason in the future for Malibu locals to venture outside of their enclave and to support local businesses and its economy. Tourism boost worldwide advertising and these guest then serve as ambassators after having had the great experiences that a visit to our city guarantees.

Thank you for your dutiful
Consideration.

Anthony Pickett MD FACOG

ACPICKETTMD FACOG

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

RECEIVED
Oct 29 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

Subject: Please do not ban or over-regulate short-term rentals in the City

From:
Sent: Monday, October 28, 2019 4:06 PM
To: Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; rmullen@mailbucity.org <rmullen@mailbucity.org>; Skylar Peak <speak@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>
Subject: Please do not ban or over-regulate short-term rentals in the City

To the Honorable Mayor, Mayor Pro Tem, and Members of the Malibu City Council -

Although I am not able to attend this afternoon's Council meeting to speak against banning or over-regulating short-term rentals in the City of Malibu, this email is to express my opinion that implementing a ban, or otherwise over-regulating such rentals, would be against Malibu's economic interests and would be an extremely unwise public policy choice.

As someone whose family has owned a condominium in the Carbon Beach area of Malibu since the 1970's, and has been making the condominium available to short-term guests for the last year or so, I believe that properly regulated short-term rentals benefit Malibu in many ways. The draft Raftelis Financial Analysis makes clear the substantial benefits that short-term rentals bring to the City, including transient occupancy taxes, sales taxes, and increasing Malibu's brand on a national and international basis.

We have had great success with our short-term rental, and have taken great care to ensure that our guests are respectful of our neighbors and of the community they are visiting. All of our guests have dined at Malibu's restaurants, shopped at Malibu's stores, and contributed towards Malibu's healthy economy.

While reasonable regulations regarding parking, noise, and other quality-of-life issues are of course important, an out-right ban, or over-regulation, would be a big mistake, and I request that the Council carefully consider the consequences of their actions before over-reacting and harming, instead of helping, Malibu in the short term and long term.

Thank you for your consideration of this important matter.

- Bradley W. Hertz, Esq.

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

From: Bill Sampson
Sent: Friday, October 25, 2019 5:57 PM
To: Justine Kendall; Heather Glaser; Skylar Peak; Karen Farrer; Jefferson Wagner; Mikke Pierson; Rick Mullen
Subject: Short term rental ordinance hearing October 28, 2019

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

For submission to the City Council of Malibu

Honorable Council Members:

We are submitting our written comments regarding the so-called financial analysis supporting staff's persistent efforts to legalize activity in our city that is illegal but staff has condoned now for several years, doubtless with an eye on the effect it has on city coffers and consequently, ultimately, staff's compensation.

Several years ago the city manage was almost drooling at a November meeting when she gleefully informed the then council that TOT generated almost a million dollars in revenue that year. She ignored completely the deleterious effect of motels scattered throughout our neighborhoods. She also ignored, completely, that the use of single family residences as motels violates our zoning code.

Staff is now back promoting TOT as the only means of absorbing the clearly large but clearly rare expense of a major fire, an event where staff's performance was, according to those who stayed in our city, was sadly lacking. We are told we need to turn our neighborhoods into motel zones to have sufficient funds to operate as a city. The evidence is spotty at best - the so-called expert report was presented a conclusion and conjured up facts to support that conclusion.

We have been asked to support a petition which we understand will be presented by Steve Uhring and/or Michael Lustig. With some reluctance we abstain, although that solution is far superior than that presented by staff.

The report presented to you contains a great deal of hand-wringing about what may happen to the local coastal plan and that the Coastal Commission will do. May we recite a little history. We have attempted for years now to simply have the council enforce our existing zoning code. We have no interest in a new zoning code. There is no need for one. We have a code and an LCP that have already passed muster with coastal. We have NO need to risk the wrath of coastal by weakening what is already on the books with claptrap necessitating reviews, permits, bureaucrats and inviting skullduggery from those who view Malibu as a quick buck center.

Direct staff to enforce existing zoning. Use of single family residences as motels is forbidden by current law. Just enforce it. Don't create new law until you have tried enforcing the old one. Use the tools at your disposal. WE pay staff. WE direct staff. Please join us. The overwhelming result of the last election is that the citizens,

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

not bureaucrats coddled by lobbyists, should run this place. Run it for us. Stop the motel abuse now, using the tools already at your disposal. There is no need to complicate the simple.

If you REALLY want the revenue, why not permit body shops, brothels, smelters, what have you in our residential zones. What you should want instead, is to keep Malibu true the vision and mission statements you swore to uphold. Show some courage. If you protect what you love, the money will follow.

Bill Sampson
Rosemary Sampson

Bill has a long standing Monday night commitment which prevents his personal attendance.

Kelsey Pettijohn

Subject: October 28 Agenda Item 5A

RECEIVED
Oct 24 2019
CITY CLERKS OFFICE
CITY OF MALIBU

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

From: Beatrix Z
Sent: Thursday, October 24, 2019 8:43 AM
To: Heather Glaser <hglaser@malibucity.org>
Subject: Fw: October 28 Agenda Item 5A

Hi Heather....
Could you forward this for me to councilman Pierson? For some reason, when I tried to send it directly, it bounced back... Thank you so much!

Dear Councilman Pierson:
I am contacting you with regard to this Monday's agenda item 5A.

I would like to ask you to read the article that the following link leads to. This article covers some of the points not covered by the financial analysis that was presented to the Finance sub-committee. Things that cannot be presented in a financial analysis but that, in the longer term, DO have an effect on the city's income and character.
https://www.latimes.com/opinion/story/2019-10-23/airbnb-short-term-rental-silver-lake-los-angeles-regulations

I would like to urge an outright ban on short term rentals. I believe residential zoning rules DO allow the average citizen to rent out their home for the summer – as long as they don't do it more often than once every 30 days, and that if it's a bedroom or guesthouse they are renting out, they can say it is out-of-town friends visiting and that implies that the resident must be there at the same time. Trying to enforce anything other than an outright ban will be a waste of time and energy, will be unenforceable and certainly will be challenged by the professional STR outfts as "unfair" and biased in some way. Zoning does not allow turning a home or guesthouse in a residential neighborhood into an inn.

As far as lost income to the city, the report presented to the subcommittee admitted that theirs was a "worst-case-scenario" calculation. A more realistic calculation would leave out the expenses for projected mudflow damage – my neighborhood had a MASSIVE mud flow last winter after the fire and the city didn't lift a finger to assist. Whether it rains as heavily these next winters as it did last winter is speculation leaning towards pessimism. And a more realistic take would be to factor in that hotels are in the planning stages and will be built in the next couple of years and will generate the same amount in TOT but without the outlay in government resources that the residential short term rentals do (e.g. police, calls to the city, staff studies and reports, expensive outside resources for their reports, etc). And while it is not wise to "count your chickens", the fact is that the city of Malibu is a plaintiff in the Edison

CC: Council; CM; CA ;_____; Ref. Binder; Original to 10/28/19 Agenda File

case, a case where the defendant has interoffice admitted to fault, and the city stands to recoup EVERY expense that it incurs connected with the fire. We may not be as "black" as we have been in past years but that cushion is for exactly times like this – having suffered an epic catastrophe. We will be as black in five years without the short term rental money.

Cities throughout the world are fighting the big short term rental companies because they each have found that allowing them completely disrupts and closes out, regular tax-paying residents. Please protect Malibu…."***Malibu is a unique land and marine environment and residential community whose citizens have historically evidenced a commitment to sacrifice urban and suburban conveniences in order to protect that environment and lifestyle, and to preserve unaltered natural resources and rural characteristics. The people of Malibu are a responsible custodian of the area's natural resources for present and future generations."***

Please don't sell out Malibu's soul and body to the real estate opportunists.

Thank you,

Beatrix Zilinskas

ADVERTISEMENT

OPINION

Opinion: Short-term rentals in my Silver Lake neighborhood are causing 'rentrification'



A 2018 protest on the Venice Boardwalk called for increased regulation of short-term rentals. (Christina House / For The Times)

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By CHARLES FLEMING

OCT. 23, 2019
3 AM

On Nov. 1 new regulations restricting short-term residential property rentals will take effect in Los Angeles. I don't know whether the rules will help end homelessness or slow the process of gentrification, but I believe they will stop the onslaught of what I call "rentrification."

The regulations will limit homeowners to 120 days a year of short-term rentals on their properties, and limit those rentals to property occupied by the owner. Second homes and vacation homes can no longer be offered on Airbnb, VRBO and other sites for short-term rentals.

After witnessing multiple waves of gentrification around my home in Silver Lake, I'm all for the changes. Over the last few years, I've seen increasing numbers of houses purchased by people who don't intend to live in them — or rent them to long-term tenants. Instead, they rent them for a few days or a week or a month to tourists. The tenants don't work here, or vote here, or send their kids to school here. They have no stake in the neighborhood.

I asked broker David Melford of Compass Real Estate whether he's seen a trend toward short-term rentals in the area. He provided title company data showing that in 2015 39% of the 303 properties sold in Silver Lake were not intended as primary residences for their new owners. In 2018, 396 homes were sold, with 60% not intended to be primary residences.

My wife and I bought our first house in 1988 in the then decidedly unfashionable "Baja Silver Lake" area, on a dodgy street where break-ins and hold-ups were common. We moved north of Sunset to a new house on a safer block a few years later.

We could see the community changing in good ways and bad. The commercial district along Sunset Boulevard was revitalized, with new restaurants and shops, but longtime residents were being priced out of the market. Many of the middle-class Mexican, Japanese, Chinese and Philippine families who had anchored the neighborhood moved out during the late 1980s and early 1990s, and those who moved in were more likely to be white and higher-income.

The new occupants lived differently from the families who were leaving. Folks who drove their Toyotas and Hondas to work as teachers, nurses or small-business owners were replaced by screenwriters and studio musicians who drove Volvos and Subarus. Many of the incoming parents enrolled their children at private schools like Oakwood or Sequoya rather than at the local public schools, Micheltorena and Ivanhoe. We might bump into them perusing artisanal loaves at the

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Saturday farmers' market, but we didn't see them buying *medianoche* sandwiches at Café Tropical or burritos at Tacos Delta for picnics at Bellevue Park.

The next wave of home buyers, in the early 2000s, amplified the trend. The driveways of Silver Lake began sprouting Range Rovers and, later, Teslas driven by film and TV producers, tech entrepreneurs and actors. They didn't work in the neighborhood, and they didn't send their kids to local schools, but at least they wanted to live here.

Then, a couple of years ago, I began to notice a new influx. They arrived in Ubers and Lyfts, dragging suitcases. They tended to smoke a lot of weed, play loud music and leave craft beer bottles and cigarette butts on the street in front of their short-term rentals.

Two of our neighbors began renting out space in their homes, bringing visitors who seemed not to know the rules. (No, you can't park there. No, you don't put your take-home containers from Sqirl and LA Mill in the green trash barrels.) Other neighbors began to complain about houses that had turned into full-time party pads, attracting a stream of people hosting gatherings that went on late into the night.

Now the stream is a flood. The Airbnb page for Silver Lake lists more than 300 rental options in its "Entire Homes" category alone. About 30 of them are within a block or two of my house. VRBO lists 437 rentals in Silver Lake, including houses, guest houses and rooms within houses.

The shift has changed life in Silver Lake. People buying homes or looking for long-term leases are likelier to take an interest in the condition of the local schools, parks, libraries and other public services. They are likelier to maintain their properties well, and to notice and report suspicious or criminal behavior on their streets.

The short-term renters are pushing those stakeholders out. "They are removing housing from the market, at a time when we desperately need more housing. They're changing the whole feeling of the community," said Barbara Ringuette of the Silver Lake Neighborhood Council.

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I am against legislation that takes money out of the pockets of my neighbors, some of whom are retired, elderly or otherwise struggling to keep up with the rising costs of living in our increasingly hip neighborhood.

And I'm all for people who see the value in our area and want to own rental properties here. My wife and I rent out a house we inherited from her parents in the neighborhood, and we've had the same tenants for six years.

I'm less eager to see an increase in the population of folks just stopping by long enough to take a Silver Lake selfie. I remember from my youth there were businesses that catered specifically to such travelers. They were called hotels and motels, and I think they still provide that service.

Charles Fleming writes about cars and motorcycles for The Times and is the author of the urban hiking guides "Secret Stairs" and "Secret Walks."

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Charles Fleming

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OPINION

Letters to the Editor: Republicans are desperate not to talk about the evidence against Trump

Oct. 24, 2019

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Oct 24 2019
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Addendum

October 24, 2019

Dear Council Members:

As I wrote out my last letter requesting an out and out ban on short term rentals and explaining how a law-abiding resident could still do some short term rentals within the definition boundaries of residential zoning, a little voice in my head was saying , “the scofflaws will be overjoyed at this definition”, so I would like to amend my suggestion. Firstly, short term rentals are banned in residential zoning. Month-to-month rentals are restricted to 5 months or less out of the year before the residence is considered a secondary residence. And a month-to-month rental is defined as one set of occupants per month. Meaning, a resident could not rent out their home one weekend a month and return to it within the same month and still be considered within the parameters of the ban. The law abiding mom and pop’s will not be affected by an out and out ban with these provisos but the “professional” short term landlords will be screened out.

Thank you for your attention,

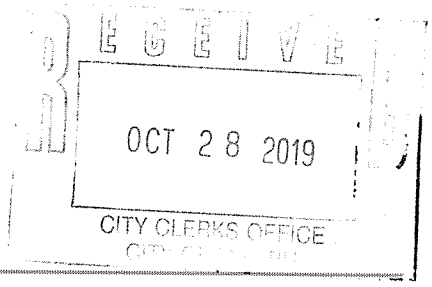
Beatrix Zilinskas

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

CC: Council; CM; CA ;_____; Ref. Binder; Original to 10/28/19_____ Agenda File

Kelsey Pettijohn

Subject: STR Legislation



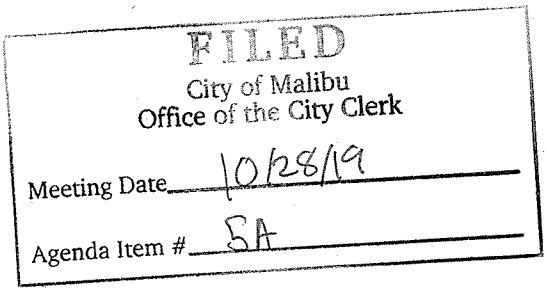
From: Booth, Craig <cbooth@CANNONDESIGN.COM>
Sent: Monday, October 28, 2019 10:39 AM
To: Mikke Pierson <mpierson@malibucity.org>
Subject: STR Legislation

As homeowners in Malibu we are not in support of limiting personal property rights by creating legislation that limits our ability to rent our property. Short term rentals have been a part of real estate ownership forever and the recognition and promotion of short term rental use through the internet should not be a reason for our local government officials to take away our property rights. The argument that short term rentals limit affordable housing stock in malibu relies on the belief that any rental in the city falls under the definition of affordable housing and therefore affordable housing is not a valid reason to take away property rights.

As longtime residents we recognize that our local business relies on tourism and short term rentals makes malibu more accessible to all. The city and the residents benefit from these revenues and limiting these benefits makes no sense.

CRAIG BOOTH
Principal

Yazdani Studio of CannonDesign
1901 Avenue of the Stars, Suite 175
Los Angeles, CA 90067
310.229.2714 direct
310.433.2882 mobile



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Oct 28 2019
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CITY OF MALIBU

Heather Glaser

Subject: Short Term Rentals

From: Debbie Barlow
Date: October 26, 2019 at 11:07:58 AM PDT
To: Skylar Peak <speak@malibucity.org>
Subject: Short Term Rentals

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

Dear Councilman Skylar Peak,

My family and I have been citizens of Malibu for almost 30 years. My husband and I raised our two children here and they both attended Webster and Malibu Middle and High School.
When our children were in school in Malibu I was very active with the PTA and other organizations volunteering for many activities. We all feel very fortunate to have had the opportunity to live and thrive here.

We have been renting to guests for almost 5 years. We live on the property in our own home, which we have been renting for the past 8 years. Before that we built and owned two homes in Malibu. We are always available on the property to help with any issue that arises. Our property is several acres which allows lots of privacy for everyone, including our neighbors. We have never had a complaint from anyone in the community and in fact have rented to many friends and family of Malibu citizens. We have also been Superhosts since we began renting. The tourist guests who rent are very gracious people and are happy to have the opportunity to stay in Malibu for a couple of days at a reasonable cost, especially families. They would not get to experience Malibu any other way. I really believe this is all the norm for hosts of STR's. It is just the couple of bad apples in the bunch which gives this great way to make a living for honest, down to earth people the chance to stay in the home where some have lived for decades. Since my husband passed away 1-1/2 years ago this rental opportunity has been my livelihood.

We have also been able to rent to many Woolsey fire victims at a time when it was needed most and still do to many construction workers and families who are rebuilding and need a reasonably priced place to stay while here. We also rent to many other business people who are in Malibu for a business reason and need a place to stay. It is unbelievable how the main focus has been on the STR's which have the parties and are unruly... it goes so far beyond that 1% who is ruining it for everyone! There is a need for STR's in Malibu.

There are so many other reasons, besides what was explained above, why STR's should be allowed in Malibu. Being a citizen of Malibu for a long time, I am very concerned regarding these items below:

- Local businesses will suffer, especially in off season, which will in turn pay fewer taxes to the City's coffers. We send our guests to local restaurants, markets, and other businesses all the time!
- Taxes from STR's, which are in the millions, will be reduced drastically or completely. Malibu is in need of more money not less at this time after the Woolsey fires.
- The City's reserve fund is in jeopardy and Malibu's rating could be reduced, which you know has many consequences.
- Malibu should be looking at hiring its' own police force which would not even be a consideration if taxes were reduced. But that is another issue for another day...
- Our rights as homeowners are being extinguished
- Permit fee waivers may be rescinded, which is wrong, but may be unavoidable if the City needs money. This could potentially cause homeowners, who are rebuilding, a tougher time and work would slow for rebuilding.
- Other expenses such as for public safety could be reduced or taken away.

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I believe the solution is to get rid of the hosts who are causing the problems. Why throw away the baby with the bath water? When there is a problem with a host, deal with them alone. Don't bother all the good citizens (the 99%) who are helping this community in so many ways. We love Malibu and want to stay a part of this way of life!

Thank you so much for taking the time to read my letter and consider all the options.

Warmest regards,

The Barlow Family

Heather Glaser

Subject: Short Term Rental Ordinance (STRO)

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

From: Dennis Seider
Subject: Short Term Rental Ordinance (STRO)
Date: October 6, 2018 at 3:07:57 PM PDT
To: Laura Rosenthal <lrosenthal@malibucity.org>, Zuma Jay Jefferson Wagner, Lou La Monte <llamonte@malibucity.org>, RMullen@malibucity.org, SKYLAR PEAK

Councilpersons:

I write in support of the compromise legislation as proposed; I apologize first, for not having Jay's official address and second for not signing up to comment in support of the proposed legislation at the last hearing.

I write because I want to continue to make my house available to families who cannot afford to rent for a month but love themselves, each other and Malibu so much more when they can experience it as a family in a single home---something they cannot do any other way.

I have written before about fighting elitism, remaining the hospitable community we always have been, opening our doors to the stranger, the boon to our economy and the improved life of our vendors that keep our homes in better repair because with rentals we can afford to but mostly I wanted to give you a sense of what id at stake for Malibu's guests who have no voice in the current process. These excerpts were taken from my VRBO 41889 "review" section and are candid descriptions of their experiences here:

Our Family Beach Vacation

Date of Stay
Jul 26, 2012
Helpful votes: 1/0

My husband and I have seven kids, three are married and live in different states, so we gather once a year for a family vacation. This home was lovely, comfortable and very accommodating. perfect for family meals and movie nights.It had just been cleaned and looked just like the pictures on the website. Towels and sheets were provided. They had housekeeping once during the week, and available more often upon request and for a reasonable fee. The kitchen is stocked for meal preparation, but we also enjoyed some of the nearby restaurants. The owners provided a helpful list. The beach is private, clean and beautiful, with good space for sunbathing or building sand castles. we enjoyed daily walks at low tide to the many tidepools, and were fascinated by all of the sea life ...starfish, anenemies, urchins, and more! The home has two kayaks, wetsuits, boogie boards, chairs, sand toys. Kayaking was alot of fun! And bring your paddleboard or rent one at the pier because this cove is perfect for it. It's a quiet, peaceful beach...for touristy activity we went to Santa Monica Pier, a nice 20 minute minute drive south. We love to explore, and Leo Carillo State Park is a short drive north on the coast. Check out El Matador...stunning rock formations on the beach. And, of course, we spent an afternoon shopping at The Country Mart just a few miles down the road. We enjoyed a wonderful week here!

Recommended for: Families with Young Children, Pet-friendly, Sightseeing, Girls Getaway, Adventure Seekers, Age 55+, Romantic Getaway, Families with Teenagers.

CC; Council; CM; CA; Ref. Binder; original to 10/28/19 Agenda file

My Response

Dear Lukhard Family: Thank you for sharing your experience about your stay. Our favorite way to spend time is with our family on vacation and we are so glad that you found and enjoyed so many of the same things we love about living on the beach at Latigo. We hope you have many more wonderful family vacations together--maybe even back at our house in Malibu. Leah and Dennis

Marie M. said...
Aug 28, 2012

One of the best friends and family vacations ever !

Date of Stay
Aug 3, 2012
Helpful votes: 4/0

We were splurging on a family vacation with our 2 young adult dhildren , and had friends from Riverside Ca spend some time with us, with their family too. Upon leaving they thanked us for the best vacation thev've ever had , and they, like us ,have been married over 30 yrs !!! All of us agreed the "cove" location on a private beach, was the absolute best way to go.The home's layout, and ameneties were actually more than we couldve ever thought of... from kayaks to sand toys , from wetsuits to boogie boards, all tucked away conveniently under the house , just waiting for us to pull them back out every morning.We saw seal and dolphin almost daily... and enjoyed watching the surfers on the bigger waves out in the distance. Fun restuarants , grocery and shopping stores nearby... There was a feeling of friendliness from the owners and property manager as well, this house is a home, waiting to be enjoyed

Recommended for: Families with Young Children, Girls Getaway, Tourists without a Car, Adventure Seekers, Age 55+, Romantic Getaway, Families with Teenagers.

My Response

WOW--I just read your review again; thanks so much for sharing your enjoyment with us--it makes renting so wonderful. Leah and Dennis

Pepperdine Mom said...
May 12, 2013

Pepperdine Graduation Weekend-Perfection!!!

Date of Stay
Apr 24, 2013
Helpful votes: 1/0

What an amazing weekend we had in this beautiful home. The location is supreme, accommodations generous, comfortable beds, incredible panoramic views, ample activities with gear available on site. Quiet private location with available parking, garage, and easy access to PCH. Restaurants, shopping, entertainment nearby. Luxurious master suite with a deck overlooking the ocean and an upscale bathroom was a delight. The bedroom with the loft also has a patio slider that opens onto the deck overlooking the ocean. We watched seals frolick, whales spout, and surfers show off. The entire family(with grandparents, aunt and uncle, and a neice with her children-14 people) fit comfortably in the home. We had a family dinner in the oversize dining room that looks out to the ocean. Everyone fit in the dining room, cooking was a breeze with the commercial style range, oven, warming drawer and all the cookware/dishes needed to create a masterpiece meal. The owner provided clear concise directions, had champagne on ice for our arrival, and made sure we were well equipped. We have stayed in several rental by owners throughout the years with 3 kids graduating from Pepperdine and this was by far the best for location, lodging, and comfortability. I highly recommend this home, this location, and this owner.

Recommended for: Families with Young Children, Sightseeing, Girls Getaway, Adventure Seekers, Age 55+, Romantic Getaway, Families with Teenagers.
My Response

WOW--I hope we can continue to live up to that glowing description; most of all glad you had such a wonderful time. Leah and Dennis

---

Family Reunion

I would ask what compelling reason the City of Malibu would have to deny these sweet and grateful people the joy they get from sharing the wonderful place we live with us. The proposal as written is a fairr compromise and I urge it's adoption.

Thank you for your kind consideration.

Dennis Seider

--
DENNIS SEIDER

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Oct 23 2019
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CITY OF MALIBU

Kelsey Pettijohn

Subject: Regulation of Short Term Rentals--Item 5(A)

From: Dennis Seider

Sent: Tuesday, October 22, 2019 4:28 PM

To: cityclerk

Cc: LEAH ELLENBERG SEIDER PH D; Alan Armstrong

Subject: Regulation of Short Term Rentals--Item 5(A)

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

Gentle persons:

I live at 26642 Latigo Shore Dr., Malibu CA 90265 and rent my house out short term throughVRBO. I have lived here around forty years.STRs helps support all the local plumbers, painters, cabinet makers and electricians that it takes to keep an ocean front house in good condition. It also supports families that need an opportunity to re-acquaint and reunite in a unique setting that promotes family togetherness that is unavailable in hotels. Here is a copy of our most recent review from a recent short term tenant so you can get an idea of what is at stake in our discussions:

Malibu oasis!

Okay, so full disclosure here, I am the type of person who will do a ton of research on any given topic or purchase. I read reviews (thanks to all of you who take the time) but rarely feel compelled to add my two cents. However, after having recently stayed at this amazing home in Malibu, I had to weigh in. As others have pointed out, the location, ample parking on a quiet street and the amenities inside and out all make this a great place. The communication with the homeowners, Dennis and Leah, couldn't have been easier. They have a very detailed primer about the house that covers just about everything. They answered all our additional questions ahead of time and followed up to make sure all was going well. In addition, they have a property manager nearby who was able to assist with checking in and out. In fact, everyone in the neighborhood was super friendly. The beach by the way is especially amazing because there is stilluseable sandy area during high tide unlike other rentals. Our adult kids loved all the available water toys to try out. And who doesn't like a beach shower with hot and cold running water! We came to have a mini family reunion just ahead of a relative's wedding nearby. The Seider's even recommended an awesome sitter. While everyone in the family raved about

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the house and its location right on the water, ourgrandkids particularly loved the loft in the 2nd master bedroom that was roomy enough for all 3 of them. The added bonus was that freed up more beds. What I think we liked best about the house though, was the fact that it is a home. The Seider's raised their children here and while they obviously don't live here full time anymore, it clearly is still home for them at times during the year as evidenced by the furnishings, family mementos, books, games, etc. We also cooked more than a few meals and once acquainted with the supplies in the kitchen and pantry, I can't think of anything that was lacking. You will have to buy your own perishable groceries of course, but there are a number of supermarkets as well as gas stations and drugstores within close driving range. And a bonus is that Highway 1 is accessible going north & south, so no backtracking. So whether you want to host a family reunion, explore Malibu and the surrounding area, or just chill out at the beach, this place has it all. Couldn't have been happier and thank you again Dennis and Leah for allowing us to share your Malibu oasis!
09/23/2019 at 9:20 PM

You responded on 09/26/2019 at 10:09 PM
True love is accepting us the way we are; our home is exactly as you described and no one has ever written a sweeter or more loving tribute; thank you for sharing your good times here. Leah and I will continue to keep the house maintained at historic levels so that we can all continue to enjoy being here, for ourselves, for your next visit, for our next visitor and for a long time to come. Warm regards, Leah and Dennis

I support the adoption of last years regulatory proposal as reasonable regulation and oppose any outright ban.

Thank you,
Dennis

--
DENNIS SEIDER

Heather Glaser

From: Danielle Stahler
Sent: Thursday, October 24, 2019 9:22 PM
To: Heather Glaser
Subject: Short term rentals

I would like to comment against short term rentals. I moved to Malibu because I loved the small town feel. It reminded me of a beach city I grew up in in Florida. We know everyone on our street & in emergencies, which living in Malibu, we have all too often. It's the homeowners who stay behind, to fight fires & make sure the rest of us have home to come back to. I owned a condo in Hawaii for 10 years, it was all short term rentals. I never knew who my neighbors were as they changed day to day. It became quite depressing to be there & I eventually sold it. Malibu could easily turn from a small town community to a revolving door city. Please do not let that happen.
Thank you,
Danielle Stahler

Sent from my iPad

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Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

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Oct 28 2019
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CITY OF MALIBU

Heather Glaser

From: Dean Wenner
Sent: Sunday, October 27, 2019 7:26 PM cityclerk
To: Short-Term Rentals - Oct 28 Council Meeting
Subject:

My wife and I are new owners in Malibu. Until the time we either retire or I substantially reduce my work engagement we will not be primary residents.

We understand and appreciate the efforts being made however the draft ordinance placing additional restrictions on non-primary residents is excessive and unfair. There are adequate standards and requirements identified in the draft document such that compliance with common decency is the intent/goal and not further commercial restrictions that the duration within the year criteria would create for compliant non-primary residents.

We should be given the same opportunity that anyone else in the City has and not be penalized in advance especially having done nothing wrong. Compliance with current ordinance (and even the draft conditions except for the non-primary designation) and respect for my neighbors should be enough. The consequences within the draft document are clear, adequate, and quite severe to encourage compliance for those less inclined to comply.

Please remove the additional restriction on non-primary residents:
“Non-primary resident permits would only allow the short-term rental or property between April 1 and September 30”

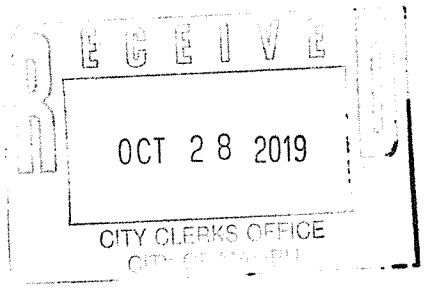
I submit this respectfully in advance of the meeting tomorrow October 28.

Thank you

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

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October 25, 2019

Malibu City Council
23825 Stuart Ranch Road
Malibu, CA 90265

Re: Short-term rental regulations

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

Dear Honorable Members of the Malibu City Council,

We appreciate your return to thoughtful deliberation on the important issue of short-term rentals. Airbnb supports the passage of common sense rules that help maintain a neighborhood quality of life while preserving the benefits that short-term renting provides to City of Malibu residents, businesses, and its broader community. However, as Malibu looks to join hundreds of jurisdictions around the country in considering regulations for short-term rentals, we write to express our concerns about Malibu's ongoing consideration of a proposed ban on all short-term rental activity.

Since 2011, Airbnb hosts in Malibu have provided local and authentic accommodations to travelers from across the world and in the process have supported local small businesses and helped supplement their income. More than half of our hosts are women and 23% are seniors over the age of 60. Denying responsible hosts the ability to rent out their homes with an arbitrary ban does little to address quality of life issues, and denies people the ability to leverage their assets to generate critical extra income.

Beginning in 2015, Airbnb partnered with the City of Malibu to begin collecting and remitting transient occupancy taxes (TOT) on behalf of our hosts and have now remitted more than $4.7m to support critical city services. In FY 2018-19, Airbnb remitted more than $1.6m or 66% of all TOT received from private rentals. According to the city's own estimates, even a partial ban of short-term rentals would eliminate the city's reserve fund and a full ban would cost the city up to $27 million of TOT by 2030.

We support reasonable regulations that protect neighborhoods and responsible hosting, but banning short term rentals will have disastrous effects on the local economy. We have worked with dozens of cities all over the country to develop fair short-term rental laws and look forward to the opportunity to work with your staff to learn more about the issues you're facing with short-term rentals, and collaborate on solutions that will allow this important activity to continue.

CC: Council; CM; CA; PL; Ref. Binder; Original to 10/28/19 Agenda File

We urge you to instruct staff to come back with a new ordinance that creates reasonable rules for short-term rentals that address the community's legitimate concerns and supports the vital benefits of short-term rentals for residents, visitors and the local government.

Sincerely,



John Choi
Public Policy
Airbnb

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Oct 28 2019
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CITY OF MALIBU

Heather Glaser

Subject: Fwd: monday night july 22

From: Joanne Gary
Sent: Monday, July 22, 2019 11:05:29 PM
To: Douglas Cleavenger <dcleavenger@malibucity.org>
Cc: Reva Feldman <rfeldman@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Skylar Peak <speak@malibucity.org>; John Mazza
Subject: Fwd: monday night july 22

Doug,

Last week, I left a message for you to call me. You have not returned my call. I spoke with Alex in person. What a disheartening conversation. I asked why the City cannot speak directly with Air B & B. Her answer was there are too many short rental groups and worse the owners have the right to do anything they want with their properties.

I came to see you about a catered 3-day weekend party for 40 people. They took the party inside after 10, but with that many people the noise was still unbearable. The caterers arrived with 10 tables that each sat several people.

I am trying to get some sleep tonight 10:37, but the video people Paul refers to are still making noise. I called the sheriff and asked them to find out if these people have a permit for their enterprise.

Again Joey's, Paul's and my concern is that a residential home in a residential neighborhood has been turned into a business. The close proximity of our homes and the narrow street has made our lives a living hell.

It seems that as Paul stated our solution will have to be in the legal arena.

(Karen and Reva, it is outrageous that you wanted us to wait 2 years for a solution. Look around you. The majority of surrounding cities have ordinances that protect its residents and safeguard their rights to live in a safe and quiet environment.You obviously only care about catering to the money interests in Malibu.)

Joanne Gary

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

Sent from my iPad

Begin forwarded message:

> **From:** Paul Wolf
> **Date:** July 22, 2019 at 6:34:13 PM PDT
> **To:** Douglas Cleavenger <dcleavenger@malibucity.org>, Joey Goodman, Joanne Gary
> **Subject: monday night july 22**
>
> doug for renting an airbnb why do they need a professional sound sytem and phography equipment i have given them notice and have told them if hear miusic especially loud music the police will be called
>
> can you please tell why there permit for an airbnb has not been pulled , this goes on constantly
>
> i guess if this continues i will have to get my attorney involved whether suing the city or others involved with the city

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

Subject: 3833 Paseo Hidalgo

-----Original Message-----
From: Joanne Gary
To: jwagner <jwagner@malibucity.org>; rmullen <rmullen@malibucity.org>; mpierson <mpierson@malibucity.org>; speak <speak@malibucity.org>; kfarrer <kfarrer@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; John Mazza
Cc: dcleavenger <dcleavenger@malibucity.org>
Sent: Mon, Jul 29, 2019 3:06 pm
Subject: 3833 Paseo Hidalgo

Good afternoon,
Thank you Mike Pierson for being the only person to respond to my Monday, July 22, email.
Hope you all had a wonderful weekend. We in La Costa on Paseo Hidalgo and Calle Del Barco did not have a wonderful week or weekend thanks to your inability and reluctance to enact a short-term rental ordinance and thanks to the Madison Group who owns 3833 Paseo Hidalgo which is only one of their short-term rental Malibu properties.
My July 22 email described last weekend's 3-day birthday party for 40 people. I had a rude awakening that afternoon. When I came home Sunday evening, because of an inordinate number of cars, I had had trouble navigating Rambla Oriente. Monday afternoon I learned why, 3942 Rambla Oriente is a short-term rental property.
As my neighbor Joey Goodman so aptly stated: "a fungus spreading its pores." And there may be more short-term rentals on our hill.
And here's my rude awakening. A 4-month wait for an ordinance to be developed and then how long until enactment? So City Manager and Mayor Pro Tem, you wanted a 2-year wait. How many more properties could potentially be purchased and turned into short-term rentals? Budget considerations should not override our right to live in peace and safety. I have heard a persistent rumor that several burn-out properties have been bought by a corporation who plans to develop these properties into short-term rentals.
Something is rotten in the City of Malibu.
Without giving a detailed description of this past week's events, here's a summary. July 22 - 26 the property was rented by a group of 23 people making a video. On Saturday 7/27 a group of 11 people arrived, but vacated the property because of a gas leak. The fire department and gas company was called. The gas leak was under the stove. Do you understand the potential for disaster? Our properties exist in close proximity to each other. Later Saturday a group of about 20 people arrived for a wedding. Noise from rap music, dancing and loud talking necessitated our phoning the sheriff. Joey Goodman has the audio. Sunday the wedding at another location, but at 1:45 in the morning, 8 cars returned and one of the cars flashed high beams at my bedroom window for about 5 minutes. I woke up and have not been asleep since. I managed to drive to Redondo where I am babysitting my 5-month old grand daughter.
We are tired of waiting for our City to respond to our plight. I hope that you read John Mazza's link that described Sedona.
Joanne Gary

Joey Goodman
Georgia Goodman
Paul Wolf
Jillian Wolf
Stephen Gary

Sent from my iPad

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

-----Original Message-----
From: Joanne Gary
To: Reva Feldman <rfeldman@malibucity.org>; jwagner <jwagner@malibucity.org>; rmullen <rmullen@malibucity.org>; mpierson <mpierson@malibucity.org>; speak <speak@malibucity.org>; kfarrer <kfarrer@malibucity.org>; dcleavenger <dcleavenger@malibucity.org>
Cc: John Mazza; Michael Lustic; Scott Dittrich; Joey Goodman; Paul Wolf
Sent: Thu, Sep 12, 2019 1:10 pm
Subject: Short-term rental 3833 Paseo Hildago

Good afternoon,
We have been waiting since November of 2017 for the City of Malibu to enact a short-term rental ordinance—almost all beach cities in So Cal have adopted ordinances.

We continue to experience disturbance of our property rights, our right to enjoy our homes in privacy and peace. With few exceptions 3833 Paseo Hidalgo is rented out daily. We never know what kind of renter we'll get.

On August 31, a large group partied on the deck that is 20 feet from my home. At 11 pm I walked out on my bedroom deck and explained the proximity of our houses and the noisy disturbance. Confronting the renters is a constant for Joey, Paul and me.

The following Saturday, September 7, about 10 pm, a group of males all wearing hoodies were partying on the deck. One began urinating off the deck toward my house. I was too afraid to go out on my deck to take a photo.

Select the arrow on the ring video attachment below that Joey Goodman took of the following: at 12:30 in the afternoon of the next day, a man begins to urinate on my property to the right of my driveway. A woman tells him to finish urinating on the other side of my driveway under my plumeria tree.

https://ring.com/share/6734390660090891098

Reva Feldman, you should be relieved of your City Manager position. While you spend money on the fiscal implications of an ordinance, corporations like the Madison Group will continue to purchase Malibu residential properties for the exclusive use as short-term rentals. You and the mayor pro tem voted to postpone ordinance enactment for 2 years. Whose interests are you placing first?

On-site owners is not the issue here. It's making it easy for business interests to turn residential properties into commercial enterprises—that is against the law.

Please read the City Council Policy below. You are in complete violation of its tenets.

Joanne Gary
Joey Goodman
Paul Woolf

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

City of Mal

City Council Polic

Title: General Welfare to be Primary Over Special or Group Inte

Purpose: To articulate the importance of the general welfare of the c special interests of an individual or group whether private officials.

Policy Statement:

The general welfare of the City's residents shall always be to any special interests of any individual or group of indivi any individual elected or appointed City official.

Implementation:

In considering its decisions the City Council and all appoir positions in an advisory capacity to the City Council shall terms of making recommendations and taking action whetl made favors and individual or a group to the detriment of t the residents of the City as a whole. When making recomn by the City Council, the staff shall discuss how the recomn the general welfare of the community as compared to the sj individual or group seeking the action from the City Counc

Date Adopted:

May 6, 1997

Sent from my iPad

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Date Adopted:

May 6, 1997

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

Subject: RE: monday night july 22

From: Paul Wolf
Sent: Tuesday, July 23, 2019 7:38 AM
To: Joey Goodman; Joanne Gary; Douglas Cleavenger
Subject: Re: monday night july 22

the citys garbage trucks could not get thru because of the blocked cars from the airbnb

tell the arab in these words im taking my garbage that could not be picked and dumping on his steps

On Tuesday, July 23, 2019, 06:41:46 AM PDT, Douglas Cleavenger <dcleavenger@malibucity.org> wrote:

I received everyone's complaints last night regarding last night's gathering. I will document this and contact the sheriff's department for the dispatch report. The City does not have an ordinance that restricts a property owner from renting on a short term basis.

Every complaint is being logged and looked into and being discussed weekly with the City attorneys office and the Sheriff's department.

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

Doug Cleavenger

Senior Code Enforcement Officer

City of Malibu

Planning Department

23825 Stuart Ranch Road

Malibu, CA 90265

Phone: (310) 456-2489, ext. 231

CC: Council; CM; CA ; 10/28/; Ref. Binder; Original to 5.A. Agenda File

Fax: (310) 456-7650

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From: Paul Wolf
Sent: Monday, July 22, 2019 6:34 PM
To: Douglas Cleavenger; Joey Goodman; Joanne Gary
Subject: monday night july 22

doug for renting an airbnb why do they need a professional sound sytem and phography equipment i have given them notice and have told them if hear miusic especially loud music the police will be called

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RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

From: Joanne Gary
Sent: Monday, October 28, 2019 8:39 AM
To: Heather Glaser
Cc: Karen Farrer; Jefferson Wagner; Skylar Peak; Mikke Pierson; Rick Mullen
Subject: STR's
Attachments: STR 7-19-18.doc; STR 619.doc; STR 6-10-19-doc.doc

Good morning again, Ms. Glaser,

Attached are 3 documents that I would like to be a part of the public record regarding STR's.
Thank you.
Joanne Gary

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
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CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

STR 6/10/19

A corporation owns the home next door to me, The Madison Group. The property at 3833 Paseo Hidalgo, a narrow street that leads to a canyon, is solely operated as a short-term rental business. The lots are small and homes are close to each other.

Since November of 2017 my neighbors and I have been subjected to noisy, large parties, traffic speeding up and down the street, cars parked on the no parking side of the street which is a fire hazard because of our close proximity to the canyon, trash, cigarette butts, another fire hazard, video taping of scantily clad people, drugs and most recently tenants threatening my neighbor with physical violence. We have called the sheriff at least 50 times, but they are powerless because the City of Malibu has not enacted an ordinance. It has been 9 months since the Council voted to enact an ordinance; it appears that the City Manager has halted the progress of ordinance enactment and is applauded for filling the City coffers, not protecting the rights of its citizens. The City of Santa Monica has an ordinance that was upheld in the courts through the efforts of the Malibu City Attorney Christi Hogin. When is the Council going to enact a plan that protects my neighbors and me as well as the other Malibu property owners impacted by short-term rentals that are businesses operating as hotels?

Over and over again my neighbors and I have contacted Council members, code enforcement as well as the sheriff's office. I was there today. Answer we can't do anything without an ordinance. The response from the Council and City officials is usually I am sorry for your pain. Now we are urging you to do something about our pain. Something is greatly amiss in the City of Malibu. A Council member when discussing the issue with a local attorney stated that most people want short-term rentals. When was that survey conducted? And City officials urge us to call the sheriff. They come if they are not busy, but as soon as they leave the party resumes, not to mention the disturbance of our sleep and health.

Laura Rosenthal's words haunt me. When the Counsel voted 3-2 in favor she and Lou Le Monte were the dissenters. Her 'sage' comments: "People have always had parties in their homes. But that is completely different from turning a home into the business of having parties. And she also stated "people have also run businesses from their homes." Again that is completely different from turning a home into a business with complete disregard for the citizens of a residential neighborhood.

Aren't zoning laws being violated: The land use permit prohibits commercial use in a residential neighborhood. These short-term rental homes/hotels violate a citizen's rights addressed in the quiet enjoyment code. Whatever or whoever is preventing an ordinance from being enacted is immoral, unethical, and illegal. I am tired of the excuses.

STR Businesses 6/11/19

Last evening I spoke at the City Council meeting; and as I was leaving two Council members stated that a short-term rental ordinance will not be enacted until the City Manager's report on the financial impact of short-term rentals arrives. When this long awaited report comes to light, what will be the difference? Of course, the City coffers will have less money, but that does not have anything to do with the egregious disregard of property rights that the City is illegally ignoring by allowing owners of Malibu residential properties who have turned these residences into hotels. My understanding is that the City of Malibu has more than enough in reserves. The safety and "expectation of quiet enjoyment" of residents impacted by these resident hotels is being ignored.

Another sleepless night and I struggle with possible legal consequences. If a fair ordinance is not enacted, I wonder about the legal consequences. If you ban all short-term rentals, the City will be in court for several years and the hotel/residences will continue as usual until the case is settled. I hope my pedestrian legal opinion is wrong. Christi Hogin, the City Attorney, was instrumental in upholding the City of Santa Monica ordinance. Does she not weigh in on the implications for the City.

STR 7/19/18

To begin, I would like to make it clear that I am not for eliminating transient occupancy, so don't quote me incorrectly in the papers. What I want is the City of Malibu to come up with a rational policy that protects residents like me, Joey Goodman, and Paul Wolf who have been victims of a non-policy. We have been told over and over by the City to call the Sheriff. Sometimes they come, usually later rather than earlier, and they might speak with the offenders about loud music, loud noise, and cars. As soon as the deputies leave, it starts all over again. Deputies are not empowered because the City of Malibu has no policy.

The owners of the offending property at 3833 Paseo Hidalgo are a business enterprise, The Madison Group. They have turned the property into a hotel. Several nights a week the property is rented. They are running the property as a business, and I can't believe that there are no zoning laws to protect us.

So here's a short version of last night, a Sunday night. My son and daughter-in-law have stayed with me over the holiday. They have work during the week like normal people and now that I am retired from teaching, I have activities and work at home. Today I am totally exhausted and am experiencing rapid heart beat.

All night and into the morning cars drove up and down the street, the renters continuing to invite friends from 8 to early in the morning.

Cars were parked on the no parking side of the street, a fire hazard and we already have burned down once. They moved the cars at the request of a neighbor, but more cars arrived and parked in the no parking zone. Several were parked there this morning.

From every room in my house I hear the cars, loud talking, women shrieking, and loud music. At ten I talked to the renters from my bedroom and told them the noise was not appropriate for a residential neighborhood on a Sunday night.

Some relief but it started up again about 11:30 until about 3 this morning. Loud talking, yelling cars driving up and down the street.

We were repeatedly awakened and each time I was awakened and have been awakened over the last 8 months, I experience rapid heart beat. Today I realized that my health is seriously at risk.

We have endured these unacceptable conditions since November 2017. I contacted the City on several occasions and received no call back until I reached out to a City Councilmen in December who told me to be patient because the City will have a policy by February 2018. It's July!

MARCH MALIBU TIMES QUOTE

"Malibu has become a hotspot for Airbnb renters coming to town for a few days and looking to get a piece of seaside life. Demand increased 186 percent in 2016. Airbnb has identified Malibu as one of the 15 "hotspot" cities that people want to visit and the city's share of the transient occupancy tax, known as the TOT, is a growing item in the city budget."

You need to protect the residents. Many cities have policies with restrictions on days, number of people, parking, noise etc. and The Sheriff needs a policy to enforce. I would be more than happy to help you create a policy.

Heather Glaser

Subject: Short-term rentals

From: Joanne Gary
Sent: Monday, October 28, 2019 8:59 AM
To: Heather Glaser <hglaser@malibucity.org>
Subject: Fwd: Short-term rentals

Ms. Glaser,
I keep finding more emails that I would like to be part of the public record.
Thank you.
Joanne

-----Original Message-----
From: Joanne Gary
To: jwagner <jwagner@malibucity.org>; kfarrer <kfarrer@malibucity.org>; speak <speak@malibucity.org>; rmullen <rmullen@malibucity.org>; mpierson <mpierson@malibucity.org>; rfeldman <rfeldman@malibucity.org>
Cc: christi.hogin <christi.hogin@bbklaw.com>; trevor.rusin <trevor.rusin@bbklaw.com>; dcleavinger <dcleavinger@malibucity.com>; sdiettrickinfo; res021gz; sduenas <sduenas@malibucity.com>; joey90265; pwolf444
Sent: Tue, Jun 11, 2019 12:57 pm
Subject: Short-term rentals

Dear City Council and City officials,

Attached is a copy of my statement at the City Council meeting on June 10, 2019 with spellings of names corrected.

Last evening I spoke at the City Council meeting; and as I was leaving two Council members stated that a short-term rental ordinance will not be enacted until the City Manager's report on the financial impact of short-term rentals arrives. When this long awaited report comes to light, what will be the difference? Of course, the City budget will have less money, but that does not have anything to do with the egregious disregard of property rights that the City is illegally ignoring by allowing owners of Malibu residential properties to turn these residences into "hotels." My understanding is that the City of Malibu has more than enough in reserves. The safety and "expectation of quiet enjoyment" of residents impacted by these "hotels" is being ignored.

Another sleepless night and I struggle with possible legal consequences. If a fair ordinance is not enacted, I wonder about the legal consequences. If you ban all short-term rentals, the City will be in court for several years and the hotel/residences will continue as usual until the case is settled. I hope my pedestrian legal opinion is wrong. Christi Hogin, the City Attorney, was instrumental in upholding the City of Santa Monica ordinance. Does she not weigh in on the implications for the City?

In the meantime, the residents of La Costa impacted by the short-term rental on Paseo Sierra do not look forward to a long, hot summer.

Sincerely,

Joanne Gary

Kelsey Pettijohn

Subject: STR's

RECEIVED
OCT 28 2019
CITY CLERKS OFFICE

From: JOANNE GARY
Sent: Monday, October 28, 2019 1:06 PM
To: Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>
Cc: Heather Glaser <hglaser@malibucity.org>; Douglas Cleavenger <dcleavenger@malibucity.org>; Joey Goodman; Paul Wolf; Scott Dittrich; John Mazza; Michael Lustic; Richard Carrigan; Bill Sampson

Subject: STR's

Dear City Council:

Today you have been inundated with emails and documents regarding the STR at 3833 Paseo Hidalgo, and these represent only a few of the messages that the City as received from Joey Goodman, Paul Wolf and I.

The Madison real estate group rents the property almost every day. Two weekends ago a party ended with a partygoer being rescued by paramedics, ambulance, and firetrucks. Last weekend again a large group interfered with our peace and quiet. There is another STR at 3942 Rambla Oriente. The number of cars on this narrow street makes maneuvering difficult and dangerous.

If you've seen the trailer for the Mr. Rogers movie. His theme is "Won't you please be my neighbor." And a "neighborhood is a place where you feel safe." We never know who will show up; we don't feel safe; we want a real neighbor.

It started in November of 2017, two years ago when the Madison Group bought the property:
Loud parties
Loud music
A gas leak
Traffic
Illegal parking
Cigarette butts
Threats
Trash
A partygoer falling off the balcony
Drugs
Videos being made
Over 50 calls to Lost Hills to no avail-no ordinance

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City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

To the Council member who has stated most residents want STR's and to the member who has said only 4 or 5 are running problematic rentals, do your homework. You have made it possible for real estate groups and hedge fund groups to buy properties and in essence turn residential homes into hotels. Are you aware of the ordinances that most coastal cities have enacted?

CC: Council; CM; CA; PL; Ref. Binder; Original to 10/28/19 Agenda File

You have neglected to protect residential property owners from infringement on our property rights. To listen to residents whose goal is to make money at the expense of their neighbors is a neglect of your duty. And the realtors representing corporate interests should lose their membership in the Malibu Board of realtors.

Yours truly,
Joanne Gary
Joey Goodman
Paul Wolf

Sent from my iPad

Heather Glaser

RECEIVED
Oct 25 2019
CITY CLERKS OFFICE
CITY OF MALIBU

From: John Mazza <res02igz@verizon.net>
Sent: Friday, October 25, 2019 11:34 AM
To: Heather Glaser; Rick Mullen; Skylar Peak; Jefferson Wagner; Karen F
Mikke Pierson; Jefferson Wagner; Skylar Peak;
Cc:
; James Palmer;
Subject: Santa Monica HSO / 9th Circuit Court of Appeals History
Attachments: Santa Monica HSO July 2017(1).pdf; homeaway_v_city_of_s

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

Council Members;

Although the Santa Monica Ordinance on Short Term Rentals is not as restrictive as some of us would like, it does have several major advantages over any other ordinance the City of Malibu could adopt.

1.The ordinance covers all the factors that the city council discussed in its' prior deliberations.

2. It fairly treats apartment owners in that it allows short term rental use of a portion of the units and provides protections for other apartment dwellers use of the properties.

3. It has provisions that protect the city in its efforts to collect taxes and requires reporting, licensee and platform obligations.

PLEASE SEE SANTA MONICA'S SUMMARY ABOVE.

4. Most of all, it provides protection from ANY law suits having gone through the court system and been approved on appeal by the court of appeals and all challenges.
This is VERY IMPORTANT because one of the tactics of AirBnB is to sue anyone who gets in its way .It is estimated that those suits cost a minimum of $1,000,000 and take quite a bit of time.If you do not change the Santa Monica ordinance in any way the City of Malibu will be immune from suits. **Please** resist any efforts to add loopholes or tweek the law in any way. That can be done at a later time if, after a period of time under this ordinance, it is deemed necessary and worth the risk of suit.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

5. Our city attorney wrote a friend of the court brief for the League of California Cities which defends the provisions of the law as it stands. This brief has already been reviewed by the appeals court when forming its' opinion.

PLEASE SEE THE BRIEF ABOVE.

The Santa Monica law can be accepted by both sides of the issue if reasonable heads prevail and can allow this matter to proceed without fear of lawsuits or interference by the coastal commission.

PLEASE RESIST CHANGES TO THE ALREADY VETTED LAW AT THIS TIME AND ASK FOR A SECOND READING.

Respectfully
John Mazza

-

-

CITY OF SANTA MONICA

HOME-SHARING ORDINANCE

RULES Effective: March 1, 2018

SCOPE AND INTENT

These rules and regulations ("Rules") established pursuant to Santa Monica Municipal Code Section 6.20 shall be followed by hosts and hosting platforms as applicable. All staff responsible for the administration and/or enforcement of the Home-Sharing Ordinance must implement and enforce the program in keeping with these rules. These Rules are not intended to be duplicative.

TABLE OF CONTENTS

I) DEFINITIONS
II) HOME-SHARING HOSTS REQUIREMENTS AND BUSINESS LICENSE CONDITIONS
III) HOME-SHARING HOSTS APPLICATION PROCEDURES
IV) HOSTING PLATFORM REQUIREMENTS

I) DEFINITIONS

a) CITY means the City of Santa Monica.
b) SMMC means the Santa Monica Municipal Code.
c) ACCESSORY STRUCTURE means living quarters, including lawfully permitted second units as defined by the Zoning Ordinance on the same premises as a single family residence. Rent Control Bootleg Units as defined in section 9.04.18.075 of the SMMC are not considered Accessory Structures for the purpose of the Home Sharing Ordinance.
d) DWELLING UNIT means one or more rooms designed, occupied or intended for occupancy as separate living quarters. A dwelling unit includes a single-family residence, an apartment or other leased premises, or residential condominium unit. A dwelling unit shall include a detached Accessory Structure (e.g. guest house) that is intended for human habitation (i.e. living quarters) when the entire property is designated for a single family residential use. Dwelling unit does not include individual hotel/motel guest rooms, condominium timeshare units, cabins, or similar guest accommodations rented to transient guests in a hotel, inn, or similar transient lodging establishment operated by an innkeeper.
e) GUEST or VISITOR means a person who rents a home-share and/or vacation rental.
f) HOME-SHARE means an activity whereby the resident(s) host visitors in their homes, for compensation, for periods of 30 consecutive days or less, while at least one of the dwelling unit's primary residents lives on-site, in the dwelling unit, throughout the visitors' stay.
g) HOST means a person engaged in providing a home-sharing and/or vacation rental.
h) HOSTING PLATFORM means a marketplace in whatever form or format which facilitates the Home-Sharing or Vacation Rental, through advertising, match-making or any other means, using any medium of facilitation, and from which the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace.
i) HOUSE SWAPPING means the exchange of a house by one owner with another owner in a different city for short periods of time by agreement between both parties to exchange homes for a specified period of time without compensation.

j) LIVES ON SITE means being present in the dwelling unit where the home-sharing is being offered, which includes but is not limited to sleeping overnight, preparing and eating meals, entertaining, and engaging in other activities in the dwelling unit that are typically enjoyed by a person in their home.

k) SHORT-TERM RENTAL means any rental of any living accommodation that is 30 consecutive days or less, including hotels, motels, bed and breakfasts, home-sharing and vacation rentals.

l) RESIDENT means primary resident of a dwelling unit, when a person occupies a dwelling, typically a house or an apartment, that serves as their primary residence, though they may share the residence with other people. For the purposes of home-sharing, a host may not have more than one residence within the city of Santa Monica.

n) TRANSIENT OCCUPANCY TAX means local transient tax as set forth in Chapter 6.68 of the SMMC. The tax is paid by the guest when paying for their rental. The collected TOT is then remitted to the City.

o) VACATION RENTAL means a rental of any dwelling unit, in whole or in part, within the City of Santa Monica, to any person(s) for exclusive transient use of 30 consecutive days or less, whereby the unit is only approved for permanent residential occupancy and not approved for transient occupancy as authorized by Chapter 6.20 of the SMMC.

II) HOME-SHARING HOSTS REQUIREMENTS AND BUSINESS LICENSE CONDITIONS

A host must comply with the following conditions:

a) A Home-Share may only be offered in a space intended for human habitation. For example, a host may not rent a space in an accessory structure that is a storage shed or garage as a Home-Share.

b) A host may not advertise their home-sharing business in any area that is exterior to the dwelling unit where the home-sharing is occurring. This includes common interior areas.

c) A host must clearly advertise the unit as a shared space, unless the advertised rental is an accessory structure, in which case the accessory structure may be advertised as a separate unit (aka “entire home/apartment”).

d) In any advertisement of the Home-Share a host must include the Business License number issued by the City.

e) No person shall provide or offer for rent any City approved home-sharing dwelling unit, in whole or in part, to any person(s) for exclusive transient use of thirty consecutive days or less. Exclusive transient use shall mean that none of the dwelling unit's primary residents lives on-site, in the dwelling unit, throughout the visitor's stay. Any such use shall be considered vacation rental use and thus prohibited. This regulation shall not apply to rental of units within City approved hotels, motels and bed and breakfasts.

f) A Home-Share host must provide the Uniform Resource Locator (URL), (i.e. the web site address) for any and all advertisements of the rental on the business license application.

g) A host must provide guests with information related to emergency exit routes if the unit is part of a multifamily building of more than one story.

h) Transient Occupancy Taxes (TOT) shall be collected on all Home-Sharing rentals. If a Hosting Platform does not collect payment for the rental, hosts are solely responsible for the collection of all applicable TOT and remittance of the collected tax to the City on a monthly basis. If a Hosting Platform does collect payment for rentals, then it and the host shall both have legal responsibility for the collection and remittance of the TOT.

i) No person or entity may operate more than one Home-Share in the City of Santa Monica.

j) A Home-Sharing applicant must provide the following as part of his/her application:

1) Address where the Home-Sharing will take place.
2) Type of dwelling unit (e.g. single family home, apartment, condominium).
3) Whether the applicant is a tenant or owner of the dwelling unit.
4) The total number of full time occupants of the dwelling unit.
5) A list of all persons that will be hosting.
6) Contact information for each person that will be hosting (e.g. email, cell phone).
7) A list of each bedroom, office, den, living room, etc., in the dwelling unit. The list shall include for each room:
   i Whether or not the room will be rented
   ii The maximum number of overnight guests that will be allowed
8) Whether or not the unit is rent controlled.
9) A link to the advertisement of the rental.

10) An affidavit certifying that the host will comply with all of the provisions of the Home-Sharing Ordinance, Business License Conditions for operating a Home-Share as outlined in these rules, and all relevant laws or be subject to revocation of their Business License.

III) HOME-SHARING HOSTS APPLICATION PROCEDURES

Any person who intends on operating a Home-Share from their primary residence shall complete the Home-Sharing Registration Package (HSRP). The HSRP shall include all instructions, check-lists, applications, and other educational materials related to the Home-Sharing Ordinance and relevant local laws that the host is required to comply with. Home-Share applications are exempt from the Zoning Conformance Review fee and Home Occupancy Permitting requirements.

The applicant must submit all of the following to the Business License unit to register:

a) Business License Home-Sharing Application.
b) Proof of Residency. Acceptable forms of proof include: copy of a current utility bill, cable bill, phone bill, credit card bill or bank statement showing your name and current Santa Monica residential address. Leases, rental agreements, or IDs may not be accepted as proof.

IV) HOSTING PLATFORM REQUIREMENTS

a) The City may request that the operator of a hosting platform submit, in an electronic comma-delimited format or similar format such as MS Excel, the following information:

1) The address of each residential unit that was offered on the operator's hosting platform for occupancy for tourist or transient use and was occupied for that use during that quarterly reporting period.
2) The total number of nights that the residential unit was occupied for tourist or transient use.

3) The amounts paid for the occupancy of that residential unit listed.
4) The name(s) of the person(s) responsible for each unit listed.

b) If the Hosting Platform collects payment for the rental, the hosting platform and the host shall both have legal responsibility for the collection of all applicable TOT and remittance of the collected tax to the City on a monthly basis.

c) A Hosting Platform must provide its Santa Monica host clients or potential host clients the following disclosure:

"On May 12, 2015, the Santa Monica City Council adopted the Home-Sharing Ordinance reiterating its ban on the rental of entire units as vacation rentals. The Home-Sharing Ordinance also legalized the short term rental of a portion of a person's home when the host lives on-site throughout the visitor's stay and when the host obtains a business license. Hosts are also required to collect and remit Transient Occupancy Tax (TOT) if not collected and remitted by the hosting platform."

Appeal No. 18-55367

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HOMEAWAY.COM, INC.; AIRBNB.COM, INC.,

Plaintiffs-Appellants,

vs.

CITY OF SANTA MONICA,

Defendant-Appellee.

On Appeal From the United States District Court
for the Central District of California
The Honorable Otis D. Wright, II
Case No. 2:16-CV-6641; 2:16-CV-6645

BRIEF OF AMICUS CURIAE LEAGUE OF CALIFORNIA CITIES, INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION, & CALIFORNIA STATE ASSOCIATION OF COUNTIES IN SUPPORT OF CITY OF SANTA MONICA AND TO URGE THE COURT TO AFFIRM THE DISTRICT COURT

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CORPORATE DISCLOSURE STATEMENT PURSUANT TO FEDERAL RULE OF APPELLATE PROCEDURE 26.1 and 29

The League of California Cities it is a nonprofit corporation which does not issue stock and which has no parent corporation, nor is it owned in any part by any publicly held corporation.

International Municipal Lawyers Association and the California State Association of Counties likewise are nonprofit corporations which do not issue stock and which have no parent corporation, nor is either owned in any part by any publicly held corporation.

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I.
STATEMENT OF INTERESTS

Free market capitalism and representative democracy are the great twin pillars of American society. Plaintiffs-Appellees Homeaway.com and Airbnb.com, along with their amicus supporters like Uber and Lyft, represent the innovations of 21st Century entrepreneurs. When the history of this so-called sharing economy gets written, surely its infancy as renegade, upstart, and even outlaw will be prominent in the story. But it is no surprise that adverse impacts have accompanied the internet-driven meteoric rise of some of these businesses. The conduct of the businesses needs to be reconciled with community values. That is where local government steps in.[1] The California Constitution imbues local government with police powers sufficient to enact laws that advance community goals. In his definition of freedom, American Poet Robert Frost depicts well the ideal equilibrium for business in democracy: "the ability to walk easy in the harness." Government regulation of short term vacation rentals promotes the community value of maintaining zones for residential life.

[1] "The care of human life and happiness, and not their destruction, is the first and only object of good government." –Thomas Jefferson

The League is an association of 474 California cities united in promoting open government and home rule to enhance the quality of life in California communities. The League is advised by its Legal Advocacy Committee, comprised of 24 city attorneys representing the 16 divisions of the League from every part of California. The committee monitors appellate cases affecting municipalities and identifies those cases, such as the matter at hand, that are of statewide significance.

The International Municipal Lawyers Association (IMLA) has been an advocate and resource for local government attorneys since 1935. Owned solely by its more than 2,500 members, IMLA serves as an international clearinghouse for legal information and cooperation on municipal legal matters. IMLA's mission is to advance the responsible development of municipal law through education and advocacy by providing the collective viewpoint of local governments around the country on legal issues before the Supreme Court of the United States, the United States Courts of Appeals, and state supreme and appellate courts.

The California State Association of Counties (CSAC) is a non-profit corporation. The membership consists of the 58 California

counties. CSAC sponsors a Litigation Coordination Program, which is administered by the County Counsels' Association of California and is overseen by the Association's Litigation Overview Committee, comprised of county counsels throughout the state. The Litigation Overview Committee monitors litigation of concern to counties statewide and has determined that this case is a matter affecting all counties.

The League, CSAC, and their member cities and counties have a substantial interest in the outcome of this case. Their member cities and counties have enacted a range of regulations addressing the impacts of the sharing economy and in particular the short term vacation rental (STVR) of homes zoned for residential use: some allow STVR and tax the use; some prohibit transient uses like STVR in residential zones; and many local governments, like Appellee City of Santa Monica, impose various limits aimed at assuring the STVR uses are compatible with the residential zones in which they operate. The League and CSAC's perspective on this important matter will provide the Court a broader view of the role of local government and the extent of policy implications of Appellants' proffered interpretations of the California Coastal Act and of the federal

Communications Decency Act (CDA). The League and CSAC urge the Court to consider this context in reaching an appropriate decision in the case at bar.

IMLA has a substantial interest in the outcome of this case. Appellants attempt to insulate their businesses from reasonable regulation by applying the CDA in a manner that was not intended and by re-writing the California Coastal Act in order to assign the Coastal Commission legislative authority that the state Legislature explicitly withheld from the Coastal Commission. Santa Monica's exercise of its police powers did not implicate the CDA or the Coastal Act. IMLA's commitment to understanding the reach and the limits of local lawmaking authority offers a perspective that it respectfully requests this Court consider in deciding the case at bar.

The IMLA, CSAC, and League's counsel is familiar with the issues involved. We believe additional briefing would be useful; and, therefore, we offer this honorable Court the accompanying amicus curiae brief.[2]

[2]Pursuant to Federal Rule of Appellate Procedure Rule 24(a)(4)(E), counsel for amici represents that she authored this brief in its entirety and *pro bono* and that none of the parties or their counsel, nor any other person or entity made a monetary contribution intended to fund the preparation or submission of this brief.

Pursuant to Rule 29(a) of the Federal Rules of Appellate Procedure and Circuit Rule 29-2(a), all parties to the appeal, through their respective counsel, have consented to the filing of this amicus curiae brief.

II.
INTRODUCTION

Appellants collaborate with owners of residential property to use those properties like hotel rooms for short term rentals. Both Appellants and the property owners make money on the transaction. Through this lawsuit, Appellants seek to reject Santa Monica's regulations aimed at making such use compatible with the residential zone in which this business is conducted.

The constitutional power of cities to zone land use in accordance with local conditions is well-established. See, e.g., *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal.4th 729, 737-38 (2013) (acknowledging broad police powers to establish permitted uses in zone districts). Local government's interest in this arena is well-recognized:

> A quiet place where yards are wide, people few, and motor vehicles restricted are legitimate guidelines in a land-use project addressed to family needs….The police power is not confined to elimination of filth, stench, and unhealthy places. It is ample to lay out zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people.

Village of Belle Terre v. Boraas, 416 U.S. 1, 9 (1974) ; see also *Village of Euclid v. Ambler Realty Co*., 272 U.S. 365, 380, 395 (1926) (upholding zoning that excluded apartment buildings from one- and two-family homes zones). Neither the Coastal Act nor the CDA interferes with local government's authority to determine in which zones, if any, short term vacation rentals may operate in their jurisdictions.

III.
COASTAL ACT

While a well-known and powerful agency closely associated with California's commitment to a well-preserved and publicly accessible coastline, the Coastal Commission does not possess policymaking authority and its reach in that regard is commonly exaggerated. In fact, the Coastal Act creates a partnership between state and local government for the purpose of implementing state policies of protecting sensitive coastal resources and assuring maximum public access to the coast [Pub. Res. Code §30210-30265.5]. *See* Pub.Res.Code §30500 (requiring local government to prepare local coastal programs and expressly preserving local government authority to determine "[t]he precise content of each").

Unlike cities that derive zoning authority from their constitutional police power [Cal. Const. art. XI, §7][3] , the Coastal Commission is created by the Coastal Act and its authority derives exclusively from the statute. The California Supreme Court examined this statutory authority in *Marine Forests Soc. v. California Coastal Comm'n,*36 Cal.4th 1, 25-26 (2005); the emphasis below is added:

> The Coastal Act authorizes the Coastal Commission to perform a variety of governmental functions, some generally characterized as "executive," some "quasi-legislative," and some "quasi-judicial." As a general matter, the Commission performs an "executive" function insofar as it carries out programs and policies established by the Legislature, and the Commission is included for administrative purposes in the Resources Agency, a part of the executive branch. (§ 30300.) The Commission performs a "quasi-legislative" function when it engages in rulemaking through the adoption of regulations (*Pacific Legal Foundation v. California Coastal Com.* (1982) 33 Cal.3d 158, 168, 188 Cal.Rptr. 104, 655 P.2d 306), and a "quasi-judicial" function when it passes upon applications for coastal development permits (*Davis v. California Coastal Zone Conservation Com.* (1976) 57 Cal.App.3d 700, 707, 129 Cal.Rptr. 417), when it reviews the validity of a local

[3]See *Big Creek Lumber co. v. County of Santa Cruz* (2006) 38 Cal.4th 1139, 1151 ("Land use regulation in California historically has been a function of local government under the grant of police power contained in Article XI, Section 7 of the California Constitution.")

> government's coastal program (*City of Chula Vista v. Superior Court* (1982) 133 Cal.App.3d 472, 488, 183 Cal.Rptr. 909), and when it issues cease and desist orders with regard to unauthorized development (*Ojavan Investors, Inc. v. California Coastal Com.* (1994) 26 Cal.App.4th 516, 528).

As the Supreme Court catalogues, the Commission has two categories of authority in relation to cities and they are both "quasi-judicial," namely (1) certifying that a local coastal program (LCP) implements Chapter 3 policies [Pub. Res. Code §30512]; and (2) issuing coastal development permits (CDP) for specific development applications until an LCP is certified and, thereafter, determining certain appeals [Pub. Res. Code §§30600(c), 30601, 30603]. Accord *Yost v. Thomas*, 36 Cal.3d 561, 572-573 (1984) ("'[T]he Commission in approving or disapproving [an LCP] does not create or originate any land use rules and regulations. It can approve or disapprove but it cannot itself draft any part of the coastal plan.'"); *City of Malibu v. California Coastal Comm'n*, 206 Cal.App.4th 549, 553-54 (2012) (reaffirming local governments—not the Commission—determine precise content of local policies consistent with state policies).

A. Coastal Act policies are implemented by development permits

The Coastal Act is implemented by requiring CDPs for all development (as defined by the Coastal Act) in the coastal zone. Cal. Pub. Res. Code §30600(a); *City of Malibu, supra*, 206 Cal.App.4th at 555. Under the Coastal Act, the Coastal Commission issues CDPs unless and until a local government adopts a local coastal program (LCP) and the Coastal Commission certifies the LCP. Pub. Res. Code §30600(d).

To be clear, the consequence of no certified LCP is that the Coastal Commission issues the CDPs for development within the coastal zone. Once a certified LCP is in effect,[4] permitting authority transfers to the local government. Before a certified LCP is in effect, the Coastal Commission evaluates CDP applications for consistency with the state coastal policies in Chapter 3 of the Coastal Act. Cal. Pub. Res. Code §§ 30600, 30604. After a certified LCP is in effect, CDP applications are evaluated for consistency with the certified LCP. Cal. Pub. Res. Code §§ 30600, 30603.

[4]An LCP is defined at Section 30108.6 of the Coastal Act as follows: "Local coastal program" means a local government's (a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) within sensitive coastal resources areas, other implementing actions, which when taken together, meet the requirements of, and implement the provisions and policies of, this division at the local level.

When a municipality acts legislatively, the municipal action is outside the Coastal Commission's permitting jurisdiction. Analyzing the statute, the California Court of Appeal found that the Coastal Commission's authority is limited to quasi-judicial permitting functions. *City of Dana Point v. California Coastal Commission*, 217 Cal.App.4th 170, 175, 188 (2013).[5] The Commission does not adjudicate the City's legislative prerogative.

B. Ordinances of general applicability are not development

Appellants misapprehend the Coastal Act and the Coastal Commission's role, suggesting that the Coastal Commission "approves" or issues CDPs for *local zoning ordinances* on an ad hoc basis. AOB at 56-57. The Coastal Commission only certifies LCPs presented to the Commission for certification by local governments that have adopted them in accordance with the procedures and authority granted to local governments by the Coastal Act.

More to the point, the Coastal Commission's certification is for the singular purpose of transferring permitting authority to the local government. In a nutshell, the Coastal Act determines when a permit

[5]The *Dana Point* case involved a nuisance abatement ordinance that, in fact, addressed particular property. The STVR Ordinance is not even remotely adjudicative. It involves no particular property and does not alone change the use of any particular property.

is required (for development in the coastal zone), who issues permits (Commission until LCP is certified, then local government), and which standards apply to permits (Chapter 3 until an LCP is certified).

Zoning laws establish the *potential* use or development of property. CDPs regulate the *actual* development of property.[6] The state policies in Chapter 3 are exclusively implemented by requiring *development* to be consistent with the policies, which is achieved by requiring CDPs for actual proposed development. The Coastal Act does not replace local zoning. The Coastal Act does not establish which uses of land must be required and in which zones they are allowed.

The Coastal Commission's permitting authority provides a backstop for coastal policies where no LCP has been certified. To illustrate, if a city without a certified LCP were to amend its zoning code to permit strip-mining, the Coastal Commission could deny a CDP if it found the proposed development inconsistent with the

[6]In fact, the definition of "development" does not extend to the adoption of a zoning ordinance of general applicability. Development means an actual "change in the density or intensity of use of land" not a change in local law *governing* the potential or allowable density or intensity of uses of land within a zoning district. *See* Pub. Res. Code § 30106. Indeed, since the enactment of the Coastal Act in 1976, coastal cities have been adopting zoning ordinances without obtaining CDPs and Santa Monica is no exception.

Coastal Act Chapter 3 policies. The Commission cannot prevent that hypothetical (or any) city from adopting its own zoning rules or otherwise exercising its police powers. The Commission may withhold from a property owner a permit for a development incompatible with state policies in Chapter 3 of the Coastal Act. The Commission may not compel a city to allow a use by characterizing zoning as "development;" that is beyond its statutory jurisdiction.

Section 30106 defines "development" to mean "on land, in or under water, the placement or erection of any solid material or structure…or change in the density or intensity of use of land…" A zoning ordinance itself is not a use of land.

Property owners decide how their property will actually be used, in compliance with applicable regulations. The STVR Ordinance did not in itself change the intensity of use of any land. Individual property owners making use of their property could change the intensity of use by selecting among permitted uses. The Coastal Act is absolutely clear that the Coastal Commission does not have authority to set local policy. *Yost*, *supra*, 36 Cal.3d at 573. The Coastal Commission's job under the Act is to certify that the LCP is

consistent with the State policies and the Commission "limited to its administrative determination." Pub. Res. Code § 30512.2(a).

Zoning laws of general applicability that are not part of an LCP are outside the purview of the Coastal Commission. Appellants' theory would require that all zoning laws for coastal jurisdictions either be certified as part of an LCP or be treated as "development" and issued a CDP. This would confer power on the Commission over local jurisdictions that the Legislature specifically withheld.

C. No Coastal Act policy compels STVR uses in residential zones

Appellants erroneously claim that Santa Monica's zoning ordinance is "substantively invalid" under the Coastal Act. AOB at 53. Appellants assert that the Coastal Act mandates certain policies (*i.e.*, must allow for STVR use in the City's residential zone) for every part of the coastal zone. If this were the case, the California coast would be a homogenous zone with identical policies for every jurisdiction. It is not. Moreover, if the Appellants' argument were accepted that the Coastal Act's policies are explicit directives of policy that local jurisdictions must enact, then Santa Monica would similarly be unable to prohibit the sale of bait or the repair of commercial fishing boats in its residential zones because these are

also policies that are mentioned and encouraged by the Coastal Act. *See* Pub. Res. Code § 30234 ("Facilities serving the commercial fishing and recreational boating industries shall be protected"); Pub. Res. Code § 30234.5 ("[E]conomic, commercial, and recreational importance of fishing activities shall be recognized and protected.").

The California Supreme Court long ago concluded that the Coastal Act does not preempt local zoning regulations. *Yost, supra*,36 Cal.3d at 561 (holding that the Coastal Act does not preempt referendum power and that it leaves "wide discretion" and "autonomy" to local governments in land use planning); see also *City of Dana Point v. California Coastal Commission*, 217 Cal.App.4th 170, 214 (2013) (holding the Coastal Act does not preempt exercise of police power to declare public nuisances); *San Mateo County Coastal Landowners' Assn. v. County of San Mateo*, 38 Cal.App.4th 523, 538 (1995) (finding the Coastal Act did not preempt initiative to amend certified LCP).

The Commission's review of local ordinances is exclusively in connection with certification of an LCP and explicitly limited to determining whether the local policies are consistent with state policies:

> **§ 30512.2. Land use plan; criteria for decision to certify or refuse certification**
>
> The following provisions shall apply to the commission's decision to certify or refuse certification of a land use plan pursuant to Section 30512:
>
> (a) The commission's review of a land use plan shall be limited to its administrative determination that the land use plan submitted by the local government does, or does not, conform with the requirements of Chapter 3 (commencing with Section 30200). In making this review, the commission is not authorized by any provision of this division to diminish or abridge the authority of a local government to adopt and establish, by ordinance, the precise content of its land use plan.
>
> (b) The commission shall require conformance with the policies and requirements of Chapter 3 (commencing with Section 30200) only to the extent necessary to achieve the basic state goals specified in Section 30001.5

Pub. Res. Code § 30512.2 (Emphasis added)

Appellants focus their argument on their assertion that Santa Monica's STVR ordinance in particular directly conflicts with the Coastal Act. AOB at 54. Specifically, Appellants claim that the STVR ordinance directly conflicts with a state law policy that "[l]ower cost visitor and recreational facilities shall be protected [and] encouraged." AOB at 54.

Appellants have set themselves an impossible task because they cannot point to any provision of state law that requires "low cost vacation rental housing" nor could they identify any provision of state law that requires a specific use in any particular zone. The reason Appellants cannot is because no such provisions of law exist. Instead, to claim that state law prevents adoption of a particular ordinance, Appellants convert broad policy language into specific mandates.

The Legislature enacted broad state policies in Chapter 3, with the overarching twin (but sometimes conflicting) goals of maximizing public access to the coast and preserving sensitive coastal resources. The Coastal Act authorizes local governments to adopt plans to implement these broad state policies in more specific ways. (*See* Coastal Act §30004, setting out Legislative findings, including "to achieve maximum responsiveness to local conditions, accountability, and public accessibility, it is necessary to rely heavily on local government and local land use planning procedures and enforcement.")

As discussed above, the Coastal Commission is created for the administrative task of certifying that the precise policies in the local programs are within the range of possibilities consistent with the

broad state policies. Also, the Coastal Commission performs the quasi-judicial task of issuing CDPs until a certified LCP is in effect.

Accordingly, the Coastal Act is not structured to be vulnerable to direct conflicts with local laws because its policies are used only to guide and certify LCPs and to evaluate CDP applications for development projects. Nevertheless, Appellants argue that the STVR ordinance conflicts with a general state law that they claim should be interpreted to permit STVRs (and therefore compel local governments to permit STVRs in all zones). AOB at 53-54. Appellants never actually cite language in the Coastal Act that allegedly conflicts with the STVR Ordinance; instead, Appellants claim that the "maximum access" and "recreational opportunities" goals of the Coastal Act conflict with the STVR Ordinance, citing Public Resources Code §§ 30213 and 30222. AOB at 53-54.

The Coastal Act sections Appellants cite are two of the 41 policies covering six subject areas that comprise Chapter 3 of the Coastal Act. As discussed above, these are among the broad state policies that must be considered in connection with CDP applications and the certification of LCPs. Public Resources Code § 30213 provides as follows:

> "Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.
>
> The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities."

Public Resources Code § 30222 provides as follows:

> "The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry."

Neither of these provisions requires STVR uses in residential zones and neither preempts Santa Monica from adopting the STVR Ordinance or otherwise choosing the precise policies to implement these state policies that reflect local planning as envisioned by the Coastal Act and affirmed in *Yost*. These policy provisions list various types of land uses (*i.e.*, recreational, low cost visitor serving,

commercial recreational, private residential, agricultural, *etc*.) and provide no support for the idea that STVR use is even preferred. *See* Pub. Res. Code § 30213 ("public recreational opportunities are preferred"); Pub. Res. Code § 30222 ("recreational facilities designed to enhance public opportunities for coastal recreation shall have priority . . . but not over agriculture or coastal-dependent industry").

Appellants just misread the Coastal Act; Santa Monica is not required by state law to allow in its residential zones STVR uses, agricultural uses, or recreational uses (*e.g.*, kayak rentals, parking facilities, public restrooms, etc.). Accordingly, Santa Monica is likewise free to impose reasonable regulations on the conduct of businesses where the regulation advance the City's land use goals.

Appellants are right that the Coastal Act should be liberally construed as to effectuate the purpose of the statute. *See* AOB at 52. However, Appellants ignore the "purpose of the statute" when they propose to "construe" the Coastal Act in a way that fundamentally changes the statute.

Appellants argue that the Coastal Act should be read to totally supersede the police power of a local jurisdiction; but, as quoted above, Coastal Act §30004 explicitly expresses the Legislative intent

to rely on and preserve the local governments' exercise of their police powers. Appellants would cast the Coastal Commission in a greatly expanded role, but also in a role appropriate for a legislative body exercising police powers and not an executive branch agency.

No law of general applicability like the STVR Ordinance has been struck down as preempted by one of the numerous policies addressed by the Coastal Act. Nevertheless, Appellants pluck two specific policies (§§ 30213 and 30222) from among the 41 found in Chapter 3 of the Coastal Act to assert the STVR ordinance is "substantively invalid." But that is just not the way the Coastal Act works. Chapter 3 policies are broad and sometimes conflicting and they serve only to evaluate CDP applications and certify LCPs.

An argument similar to Appellants' and likewise requesting a great expansion of power to the Coastal Commission under the Coastal Act was rejected by the California Supreme Court in *Sierra Club v. California Coastal Com'n*, 35 Cal.4th 839 (2005). In that case, the *Sierra Club* argued that the Coastal Act should be liberally construed—based in part on the general legislative findings—to broaden the scope of the Coastal Act to areas outside of the Coastal Zone. The Supreme Court explained,

> Finally, *Sierra Club* relies on the Legislature's express command that the Coastal Act "be liberally construed to accomplish its purposes and objectives." (§ 30009.) For several reasons, Sierra Club's reliance on these provisions is unavailing. First, these broad statements regarding the general goals of the Coastal Act cannot overcome the express terms of section 30604(d), through which the Legislature has specifically addressed the limits of both the Coastal Act's reach and the Commission's power. Second, Sierra Club's construction would effectively transfer control over proposed development outside the coastal zone from local authorities to the Commission, simply because part of a proposed project happens to be inside the coastal zone, but the general statements Sierra Club cites reflect no legislative intent to effect such a transfer of control.

Id. at 856.

The general goals of the Coastal Act do not override the limited quasi-judicial power granted to the Coastal Commission in relation to local governments. *See* Coastal Act §30512 [certifying LCP]; Coastal Act §§ 30600(c), 30601, 30603 [issuing CDPs prior to LCP certification]. These code sections do not impact Santa Monica's general legislative function. Appellants' request to construe the Coastal Act "broadly" is, in effect, a request to limit the police power

of local jurisdictions, which is decidedly not the intent of the Coastal Act.

IV.
COMMUNICATIONS DECENCY ACT & THE FIRST AMENDMENT

Appellants also invoke both the First Amendment and the CDA in an attempt to shield their businesses from compliance with local zoning laws. Neither provides such asylum.

The United States Supreme Court has unequivocally and consistently held that the First Amendment does not protect commercial speech advertising illegal activity. See *Pittsburgh Press Co. v. Human Relations Comm'n*, 413 U.S. 376 (1973); *Central Hudson Gas & Elec. Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1980). In *Pittsburgh Press Co.*, the Supreme Court examined a local ordinance that prohibited, among other things, newspapers from publishing help-wanted job advertisements in sex-designated columns (*i*, certain jobs for male and certain jobs for females). *Pittsburgh Press Co., supra*, 413 U.S. at 378-79. The Court rejected a First Amendment challenge to this ordinance and explained:

> Discrimination in employment is not only commercial activity, it is illegal commercial activity under the Ordinance. We have no doubt that a newspaper constitutionally

> could be forbidden to publish a want ad proposing a sale of narcotics or soliciting prostitutes....The illegality in this case may be less overt, but we see no difference in principle here.

Id. at 388. The California Supreme Court has confirmed that commercial speech advertising illegal activity is not protected by the First Amendment and can be banned. See *Gerawan Farming, Inc. v. Kawamura*, 33 Cal.4th 1, 22 (2004) (California Supreme Court adopting the *Central Hudson* factors so that commercial speech "must concern lawful activity" to be protected by the First Amendment); *Leoni v. State Bar*, 39 Cal.3d 609, 624-25(1985) ("The United States Supreme Court has stated the principle in broad terms: "The government may ban forms of communication more likely to deceive the public than to inform it [citations] or commercial speech related to illegal activity [Citation]").

Appellants rely on *Reed v. Town of Gilbert, Arizona* _U.S._; 135 S.Ct. 2218 (2015), which they suggest renders Santa Monica's ordinance "presumptively unconstitutional." AOB at 48. However, *Reed* is inapplicable. In *Reed*, the Court examined a city's comprehensive sign regulation that treated certain subsets—temporary, political, and ideological signs—differently based on their

message (*i.e.*, size, shorter temporal limits sign posting, numeric limits on the number of signs per property). *Reed, supra*, 135 S.Ct. at 2224. The Supreme Court held this to be a content-based restriction. *Id.* at 2231-2232. Reed does not discuss commercial speech or mention *Central Hudson* or *Pittsburgh Press Co.* Unlike *Reed*, where the speech at issue was clearly legal and not even commercial, Appellants here claim a First Amendment right to commercially advertise illegal activity. Multiple courts have recognized Reed's inapplicability to commercial speech. See *CTIA-The Wireless Association v. City of Berkeley, California,* 139 F.Supp.3d 1048, 1061 (N.D. Cal. 2015) (nothing in the Supreme Court's "recent opinions, including *Reed*, even comes close to suggesting that the well-established distinction" between commercial and noncommercial speech "is no longer valid"); *Contest Promotions, LLC v. City and County of San Francisco,* 2015 WL 4571564, at *4 (N.D. Cal.2015) ("Reed does not concern commercial speech"); *California Outdoor Equity Partners v. City of Corona* 2015 WL 4163346, at *10 (C.D. Cal. 2015) ("*Reed* does not concern commercial speech . . . [t]he fact that *Reed* has no bearing on this case is abundantly clear from the fact that *Reed* does not even cite *Central Hudson.*").

Plus, the prior restraint doctrine does not even apply to commercial speech. See *Central Hudson, supra,* 447 U.S. at 571, n. 13 ("We have observed that commercial speech is such a sturdy brand of expression that traditional prior restraint doctrine may not apply to it").

Finally, among other reasons, Appellants' attempt to immunize themselves from liability under local zoning laws using the CDA fails because Appellants are more like pawnbrokers than journalists and bulletin boards. The growing jurisprudence in this area confines the immunity offered by CDC to damages caused by the utterances of third parties. So Airbnb.com and Homeaway.com are not responsible if a "host" describes its dumpy subterranean unit as a palace with sweeping scenic views. However, Santa Monica's ordinance holds Appellants accountable for their actions. Appellants have gone into business to book STVRs in residential zones, a business they must conduct within the confines of local zoning laws. This is true whether they conduct business on the internet or from behind a card table at a strip mall storefront.

Appellants' implication that enforcement of reasonable zoning regulations will essentially break the internet is unwarranted. Internet

businesses will find ways to thrive – as good businesses do – within bounds of applicable laws. In this regard, Appellants' businesses have some kinship with pawnbrokers. Pawnshops are a heavily regulated business. The laws aim to prevent the business from transacting in stolen goods. Customers must provide positive identification and a complete description of the merchandise. In most jurisdictions, pawnshops provide local law enforcement with data on all transactions on a daily basis. Nevertheless, the businesses thrive as they come to "walk easy in the harness."

Appellants make money on the booking transactions offered on the websites they control, just as the pawnbroker stands to earn a profit off collateral jewelry it will sell. All businesses should be held responsible for assuring the commercial transactions from which they profit are lawful.

V.
CONCLUSION

For the foregoing reasons, the League of California Cities, the International Municipal Lawyers' Association, and the California State Association of Counties urge this Honorable Court to affirm the decision of the District Court in this case.

Dated: May 21, 2018

By: s/ Christi Hogin

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League of California Cities,
International Municipal Lawyers Association,
& California State Association of Counties

CERTIFICATE OF COMPLIANCE WITH RULE 32(a)

In accordance with Rule 32(a)(7)(B) of the Federal Rules of Appellate Procedure and Ninth Circuit Rule 32-1, I certify that this *Amicus Curiae* Brief is in a proportionally spaced 14-point font; that the brief was produced on a computer using a word processing program; and that the program calculated that the brief including the statement of interests and footnotes (but excluding tables of authorities and contents) contains 4842 words.

Dated: May 21, 2018

By: s/ Christi Hogin

CHRISTI HOGIN
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League of California Cities,
International Municipal Lawyers Association,
& California State Association of Counties

CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2018, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

May 21, 2018 By: s/ Wendy Hoffman
WENDY HOFFMAN

RECEIVED
Oct 25 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

From: John Mazza
Sent: Friday, October 25, 2019 3:26 PM
To: Heather Glaser; Rick Mullen; Skylar Peak; Jefferson Wagner; Karen Farrer; Mikke Pierson; Mikke Pierson; Jefferson Wagner; Skylar Peak; rdmullen; Cc: steve.uhring; migmacmonk; healypatt; jfloatz; info; James Palmer; rlawrence; John Mazza
Subject: Shortfall in AirBnB revenue comment for 10/28 council meeting STRs

Council Members

In the staff report on short term rentals much is made of the city of Malibu's need for short term rental TOT taxes. If we regulate short term rentals and cut the usage of them 50% there will be little if any change in revenues. The city has agreed to let AirBnB collect the taxes and report the total to the city but does not allow audits of the tax collection. This is from an agreement that was written by AirBnB and ratified by the council.

As part of a netflix series called "Stay Here" Netflix claims that it received over $40,000,000 in revenue from Malibu. the Malibu Beach home was the second episode in the first season. As best I can tell this was shot in early 2018. and reflects 2017 revenue.The series is still available on Netflix.and if you have a subscription you can watch it.

The below article is on the website of Peter Lorimer, the Airbnb representative who is the main Airbnb promoter in the series.

You do not need to go very far into the article (about the fourth phg) where he states that AIRBNB is generation $40 Million in revenue from Malibu, which by my math says our tot revenue from Airbnb should be in the $4.8.million range.

We will never know because we have an agreement that says they do not need to tell us.

If we even collect one half of the revenue due us from only one platform we will increase our TOT tax collection to a level that there will be no shortfall. As you can tell, by reviewing the "financial analysis "done by our consultant, this fact was not even mentioned

https://peterlorimer.com/blog/2018/10/18/passive-airbnb-article-a-malibu-blunder-stay-here-netflix-series-continues-to-impress

Here is a recent article on how AirBnB operates and uses various means to run circles around city TOT collection by the respected Wired Magazine

https://www.wired.com/story/inside-airbnbs-guerrilla-war-against-local-governments/

We need to take control of our revenue and stop believing AirBnB and other platforms.

John Mazza

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

NOVEMBER 7, 2018

'Passive Airbnb' Article: A Malibu Blunder: Stay Here Netflix Series Continues To Impress

By Sam



Since the *Stay Here* Netflix exclusive series hit the home screens, the short-term rental industry has been on fire. Now is the best time to consider investing in Airbnb Arbitrage while the iron's still hot.

Episode two focuses on taking a Malibu beach house disaster and turning it into a dream getaway. If you haven't seen my previous "Stay Here" episode review, check it out here. There's more to come if you guys like these reviews, so let me know by leaving a message in the comments below!

WARNING: There will be spoilers for Stay Here Netflix Exclusive Season One: Episode Two.

Surf's Up, Profit's Up

Malibu, California is a year-round famous beach town up the coast from Los Angles. It's known for its celebrity homes, surfing, and beautiful beach view. Currently, there are around 300 single-family residencies available on the market, bringing in about $40 million a year. This averages about $1,000 a night!

Guests will pay big money for a luxury experience, especially if it involves a hot location where celebrities can be seen at the beach spot next door.

The place that Gen and Peter singled out this time around is a home that they described as "Crooked Teeth on a perfect smile." This poor beach house is in the perfect neighborhood with a great ocean view. However, the outside looks incredibly beat up, the front fence is crooked, and the inside advertisement pictures were dark and overly cluttered.

All in all, the location is *mind-blowing*. Even if the rental currently lacks, that's something that can always be fixed up later. The location around your listing is out of your control. Scouting out the site to your potential property will make or break your listing.

The Big No's

My favorite part of the *Stay Here* Netflix episode isn't the end product, but seeing everywhere the listing does wrong initially. This is because there's so much to learn from in these episodes.

The Malibu beach house is currently owned by a widow, and since her husband's passing has unintentionally let the place go. She wants to live in the beach house for six months out of the year while renting during the rest. However, in its current state– it hasn't had a single guest.

Here are all of the opportunities to learn from:

- Problem: The front gate of the house doesn't close. This is a HUGE security issue.
    - Solution: Personally, I enjoy using Keyless Locks. They're great for safety, and remove the risk of your guests losing their keys.
- Problem: The Deck Size isn't being utilized.
    - Solution: Determine what areas of your listing are the main cornerstone. When you have a beach view as your backyard– use it.
- Problem: The rental space is too personalized. While the widow wants to live in the listing for half the year,

guests may feel uncomfortable being around personal clutter or family photos.

- Solution: Have personal areas of the house that you block off from your guests. Or, create a list of items to store away when you're not currently living in the listing.

What Is Luxury?

Guests searching for a luxury experience are willing to dish the cash but have a certain level of expectations. The difference between spending $200 and $1,000 a night, is that at the higher price point the guest is expecting all of the work to be done for them. This means you can't cut corners. I have a Superhost checklist that is affordable and has been a vital part of my success as an Airbnb Host.

In the kitchen, this means having proper appliances, large countertop space, and leaving some water, white wine, or champaign for your guests in the fridge. In the bedroom, this means soft sheets, comfortable robes, and fresh premium towels.

With the profits in a short-term rental situation being directly related from heads to beds, the more places you can convert into a bedroom the better. This also allows for multiple guests to share and split the cost of a luxury experience.

For example, Peter estimated that this Malibu beach rental could make it at $1,500 a night, 22 nights a month, and gaining a profit of around $33,000 a month! But, with two bedrooms in the listing, a couple can split the

price in half! Short-term rental pricing is all about making a living location both luxurious and affordable. It's a balance!

The Design of *Stay Here* Netflix Extrodinare

Gen truly outdid herself this time around. From moving the locations of doors to giving the entire outside of the beach house a new look– it blows my mind how much the design of a listing can truly impact your profits.

The main problem list with the Malibu beach house included:

- Clearing out the clutter in the kitchen.
- Moving doors to better suit the flow of the room.
- Expanding the countertops and expanding the kitchen.
- The need to create the optimal 'Social Media Moment.'

In order to get some true Malibu flair, Gen and Peter head to the Malibu design center. The expert at the store describes the Malibu lifestyle as casual, contemporary, and beachy. No animal products are used for furniture and the main color is white. The natural color pallet of Malibu furniture is drawn from the natural setting of the ocean.

While it's easy to that that more expensive = more stuff, this is far from the truth. It's better to spend money on fewer items that are of a higher quality.

Slipcovers are definitely your friend when it comes to furniture. Not only can they easily match the color of the room, but they're incredibly easy to wash and take care of between guest visits. While white may be an intimidating color for stains, it's also incredibly easy to clean. Just keep a bottle of bleach handy and you're golden.

Another great design choice made by Gen was to paint the outside a darker color. This was a technique also used in the first episode of the Seattle houseboat. While the darker color helps to hide imperfections, can everything be solved by painting it black?

Peter's Social Media Moment

On the marketing side of the *Stay Here* Netflix episode, Peter's focus was to create the perfect social media moment through the pictures of the listing. He chose two hanging chairs to place on the outside deck and knew they would be a golden opportunity.

Hosting is learning how to nurture and deliver first impressions. You're trying to anticipate the guest's psyche through staging and smells. Offering a questionnaire before they book allows you to get to know them and their experiences.

Peter explained further that is he saw the chairs while in London, trying to find the perfect Malibu experience with the ocean out in front– the first thing he would want to do when arriving in California is to sit in one of the chairs.

Would You Stay Here?

Every business has a story, operations, design, and planned experiences. The more that you learn how to anticipate and meet the needs of your guests, the easier the job becomes. Not to mention, creating experiences that help to invoke memories only encourage great reviews and positive word-of-mouth feedback.

Do you think you have what it takes to have a Malibu beach house rental of your own? What did you think of this episode?

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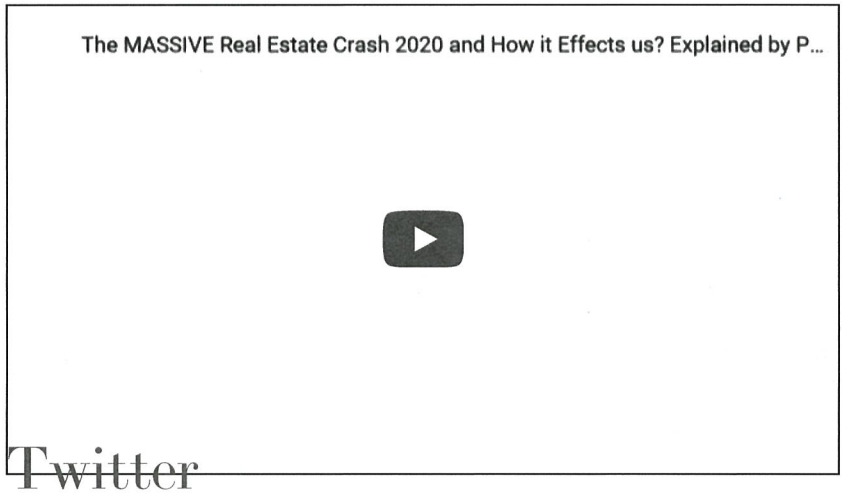
FOX BUSINESS: Netflix's 'Stay Here' Host On How To Make Money Off Of Short-Term Rentals

NOVEMBER 6, 2018

Hours

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Peter Lorimer

Our Hudson #Airbnb from #StayHere is featured in the top picks for Hudson Valley Airbnbs. If you're thinking of vis... https://t.co/PVvKATnFn1

Oct 25, 2019, 11:57 AM



Peter Lorimer

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Inside Airbnb's 'Guerrilla War' Against Local Governments

The high-profile unicorn is battling cities from Boston to San Diego over collecting taxes and enforcing zoning rules.

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03.20.2019 07:00 AM

Inside Airbnb's 'Guerrilla War' Against Local Governments

The high-profile unicorn is battling cities from Boston to San Diego over collecting taxes and enforcing zoning rules.



ALYSSA FOOTE; GETTY IMAGES

"Read my lips: We want to pay taxes," Chris Lehane, Airbnb's global head of public policy, told the nation's mayors in 2016. In the years since, the home-sharing site has repeated the declaration in press releases, op-eds, emails, and on billboards. On its website, Airbnb says it is "democratizing revenue by generating tens of millions of new tax dollars for governments all over the world."

But when Palm Beach County, Florida, a popular tourist destination, passed an ordinance in October 2018 requiring Airbnb and other short-term rental companies to collect and pay the county's 6 percent occupancy tax on visits arranged through their sites, Airbnb sued.

Palm Beach County tax collector Anne Gannon wasn't surprised. "We knew we were going to get sued," she says. "That's what they do all over the country. It's their mode of operation."

Gannon has been cajoling, threatening, and ordering Airbnb to collect taxes for its hosts since 2014. Five years, three lawsuits, and millions in unpaid occupancy taxes later, she's still trying. "All we want them to do is pay their taxes," she says. "They absolutely don't want to pay their taxes the way we want to collect them. That's the bottom line."

Similar dramas are playing out around the country. From Nashville to New Orleans to Honolulu, Airbnb is battling local officials over requests to collect occupancy taxes and ensure that the properties listed on its site comply with zoning and safety rules. In the past five months alone, the company has spent more than half a million dollars to overturn regulations in San Diego and has sued Boston, Miami, and Palm Beach County over local ordinances that require Airbnb to collect taxes or remove illegal listings. Elsewhere, Airbnb has fought city officials over regulations aimed at preventing homes from being transformed into de facto hotels and requests from tax authorities for more specific data about hosts and visits.

Airbnb is engaged in "a city-by-city, block-by-block guerrilla war" against local governments, says Ulrik Binzer, CEO of Host Compliance, which helps cities draft and enforce rules for short-term rentals, sometimes putting it at odds with hosting platforms. "They need to essentially fight every one of these battles like it is the most important battle they have."

Founded in 2008 as an early champion of the sharing economy by allowing people to rent homes, apartments, and rooms to others, Airbnb has grown into a lodging colossus, offering more than 6 million places to stay in more than 191 countries. Its listings outnumber those of the top six hotel chains combined, helping the company reportedly generate more than $1 billion in revenue in the third quarter of 2018. It is valued by investors at $31 billion, making it the country's second most valuable startup, after Uber. By comparison, Hilton and Marriott's

current market capitalizations are $25 billion and $43 billion, respectively. Earlier this month, Airbnb acquired last-minute hotel booking service HotelTonight, reportedly for more than $400 million.

One reason Airbnb is often a cheap option for travelers: Running a hotel or bed and breakfast is expensive; snapping photos of your home, apartment, or spare room and filling out an online profile is not. Hotels must comply with a litany of health, safety, and zoning rules—as well as register with local agencies and agree to collect certain taxes—before they can book a single guest.

Airbnb maintains that, in some cases, it's not permitted to collect occupancy taxes required of hotels and other lodgings; it's also not responsible for ensuring the rooms and homes listed on its sites comply with zoning or health regulations. The company says it follows local and state laws but considers itself a "platform," serving merely to connect hosts and visitors, rather than a lodging provider—more akin to Facebook than Marriott.

The onus is on hosts, Airbnb argues, to collect and pay any relevant taxes and to comply with other regulations. In practice, though, few actually do—at least not without considerable effort by local authorities—according to interviews with more than a dozen local government officials and advisers.

Some officials agree with Airbnb. In an early 2018 survey of state tax departments by Bloomberg, officials in 25 states said it was the host's responsibility to pay occupancy tax for an Airbnb stay. Officials in 14 states said they consider it the responsibility of Airbnb or other short-term rental operators. The survey was taken before the US Supreme Court ruled in June that states may collect sales tax from online retailers even when they don't have a physical presence in that state. The survey did not include local authorities, who are often more reliant on revenue from occupancy taxes, especially in popular tourist areas.

To be sure, these aren't Airbnb's taxes, any more than Hilton "pays" taxes for its guests' hotel stays. Rather, the officials sparring with Airbnb want the company to collect and forward the taxes from guests, much as hotels do. Airbnb says it isn't required to collect the taxes in many places; early on, it largely didn't.



That changed around 2014, when Airbnb began striking deals with officials in select cities to collect and deliver taxes from its hosts. It calls these Voluntary Collection Agreements, or VCAs. In Portland, site of the first agreement, city officials legalized home-sharing and lowered the registration fee for short-term rentals around the same time Airbnb

agreed to add a 11.5 percent occupancy tax on each booking. It later negotiated similar deals in San Francisco, Chicago, Philadelphia, Washington, DC, and elsewhere. The company says it has signed more than 350 such agreements nationwide and more than 500 around the world, and has collected more than $1 billion in taxes.

“Some governments have rules requiring platforms like Airbnb to collect and remit taxes, and we make every attempt to comply with these obligations,” says Christopher Nulty, Airbnb’s head of public policy. “However, many governments do not have such rules and so Airbnb has proactively established more than 500 voluntary collection agreements globally to ensure our community is paying their fair share of taxes. We are eager to do everything we can to ensure we are paying our fair share and willing to work with any government that will work with us.”

However, those agreements don’t require hosts to meet other zoning, health, and safety rules, and they prohibit cities from attempting to collect back taxes. Some also create obstacles for local agencies to identify and police hosts who list through the site. Dan Bucks, former director of the Montana Department of Revenue and former executive director of the US Multistate Tax Commission, analyzed some of the few publicly available Airbnb agreements and found that most prevented city officials from learning the names or addresses of Airbnb hosts, making it impossible for officials to enforce local codes. Bucks says the agreements helped Airbnb grow by “providing a shield of secrecy” to hosts. His study was partially funded by the American Hotel and Lodging Association, which is often at odds with Airbnb and other short-term rental companies.

"All we want them to do is pay their taxes."

ANNE GANNON, PALM BEACH COUNTY TAX COLLECTOR

Airbnb says its VCAs are designed to help government agencies collect tax revenue, not to help them enforce other laws related to short-term rentals. The company says the agreements show that it is a responsible corporate citizen.

Historically, other online rental services, such as Booking.com, HomeAway, and VRBO, have not collected these taxes in many places. In the past two years, HomeAway and VRBO have begun collecting some occupancy taxes in a handful of areas—sometimes using their own version of a VCA. Booking.com does not offer any occupancy-tax collection services, compounding the revenue drain for municipalities. Booking.com’s global communications manager, Kim Soward, says the company pays all required taxes. Expedia Group—owner of HomeAway, VRBO, VacationRentals, and other sites—did not respond to multiple requests for comment.

Airbnb is the undeniable giant of the field, and is reportedly preparing for an initial public offering. About 51 percent of all short-term rental listings in the US are on Airbnb, according to an analysis by Binzer, of Host Compliance. VRBO controls 17 percent of listings and HomeAway 11 percent, he says.

Poster Child

New Orleans was hailed as the poster child for Airbnb's work with local governments after signing a VCA in December 2016. Around the same time, the city struck a deal with Airbnb to legalize short-term rentals while requesting that the company share the names and addresses of hosts, ban certain illegal listings, and create an online system that automatically registers hosts with the city, among other things. Many viewed the deal as a sign Airbnb was learning to live with local taxes and regulations.

Today, city officials say they're disappointed. They say a surge in short-term rentals has exacerbated New Orleans' affordable housing crunch and turned entire residential blocks into de facto hotels. Jane's Place Neighborhood Sustainability Initiative, a local housing group, says there were 4,319 whole-unit Airbnb listings in the city last year, more than double the 1,764 in 2015. The group found that 11 percent of operators, including many from outside Louisiana, control 42 percent of the city's short-term rentals.

The largest operator, a company called Sonder, has 197 short-term rental permits. Nearly 80 percent of Sonder's listings are booked through platforms like Airbnb, according to Sonder's director of communications, Mason Harrison. "That's a different story than the mom-and-pop" narrative that Airbnb often uses to describe its hosts, says New Orleans councilmember Kristin Gisleson Palmer.

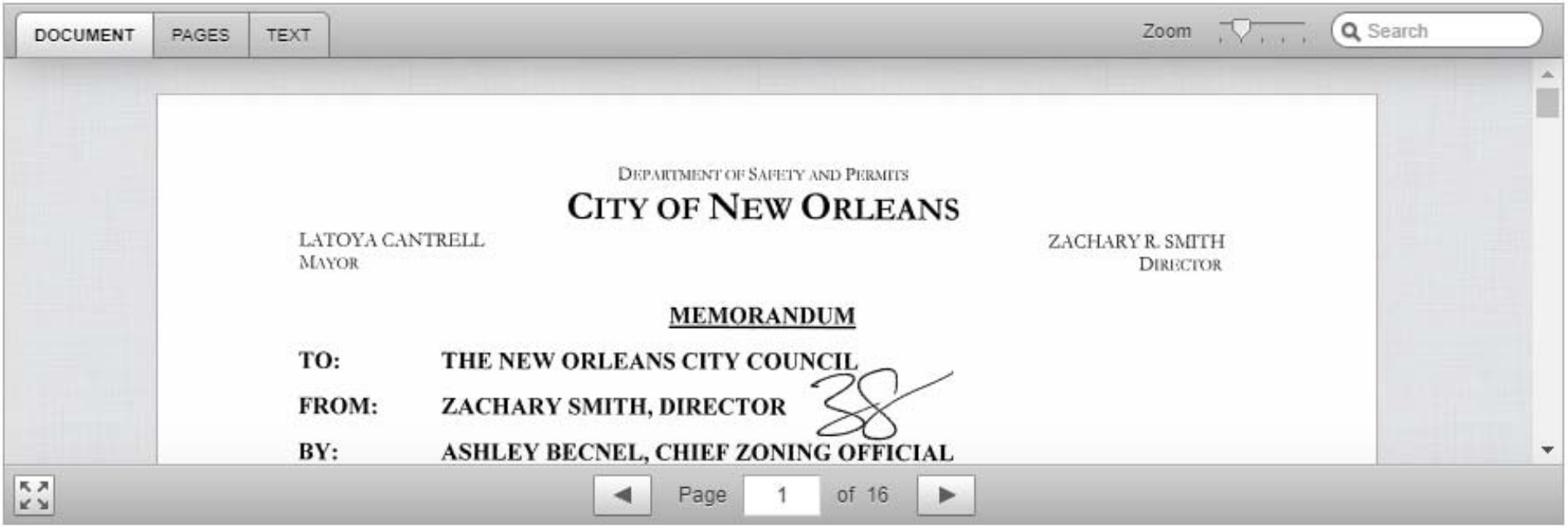
City officials say the registration system Airbnb launched in April 2017 didn't give them some data they had requested, such as the identity of the property owner or tenant, the number of bedrooms in the property, and contact information for the property manager. To collect the missing data, city staffers say they had to contact 4,786 applicants over three months. "We could not really effectively use [the data provided] for enforcement and holding folks accountable," Palmer says.

In May 2018, the city council imposed a nine-month freeze in some areas on new permits for renting a home without an owner present. The following month, Airbnb disabled the registration system—including another enforcement-enabling feature, which displayed hosts' license numbers on their Airbnb listings.

A February 15 report by the city's Department of Safety and Permits, obtained by WIRED, states that disabling the registration system caused a year of work by city officials tracking short-term rentals to "disappear overnight." The report concludes that Airbnb and other short-term rental companies had engaged in "deliberate data obfuscation, refusal to provide the required data, and a total failure of cooperation with any enforcement mechanisms pursued by the City." The report notes that Airbnb continues to collect and remit occupancy taxes for its listings in the city.

Airbnb says city officials' description of events is "inaccurate," and that it is supplying all the information that is required. The company says there were "initial bumps in the road that Airbnb was working with the city to address, only to have lawmakers abruptly change the rules in May 2018." Those changes, the company says, made the registration system ineffective.

"Housing affordability is a challenge in New Orleans—in fact 70 percent of our host community have said they rely on the income they make to stay in their homes," Airbnb says. The company says it is committed to working with officials to resolve any concerns.



A February report by the New Orleans Department of Safety and Permits is critical of short-term rental companies.

Blocking New Laws

Airbnb says it complies with laws that require it to collect and pay taxes for hosts. But it has also worked to forestall such laws—even seeking at times to strip cities of authority over short-term rentals. That's what happened in Nashville in late 2017 and early 2018.

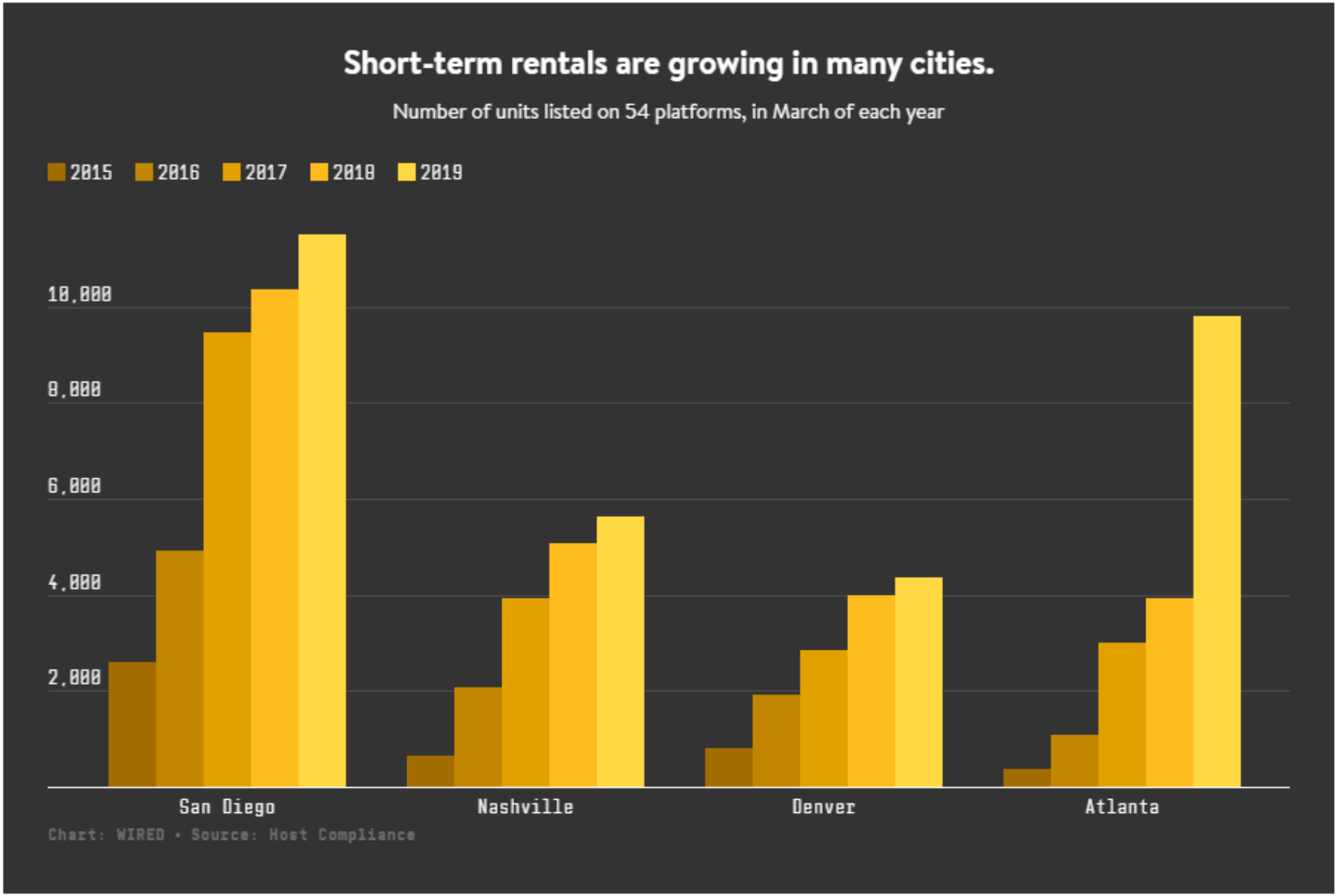
As the city inched closer to prohibiting so-called "mini hotels"—non-owner-occupied homes used exclusively as vacation rentals—Airbnb shifted its focus from City Hall to the state Capitol three blocks away. In the latter half of 2017, the company more than doubled the number of lobbyists it employed in Tennessee, to from four to 11, and spent between $225,000 and $350,000 on lobbying between February 2017 and August 2018, according to reports the company filed with the state.

In January 2018, the Tennessee Department of Revenue signed a VCA with Airbnb. The agreement requires Airbnb to collect and pay the 7 percent state sales tax on its bookings, but does not cover the 5 percent occupancy tax in Nashville, by far its largest market in the state. A few days later, Nashville passed its ordinance prohibiting mini hotels.

Around this time, a political action committee called the Committee to Expand Middle Class By Airbnb, Inc. donated $10,000 to groups representing Tennessee Republicans, according to campaign finance records. The donations included $2,500 to the campaign of state representative Cameron Sexton, who had introduced a bill in 2017 specifying that short-term rentals should not be considered hotels under state law. The bill, known as the Short-Term Rental Unit Act, was drafted in consultation with Airbnb and other short-term rental companies, including HomeAway, according to the *Tennessean*. It included a provision stripping cities of the power to ban existing short-term rentals. The Tennessee General Assembly passed the bill in April 2018.

Local activists say the law cripples cities' ability to tackle an important local issue. "The Tennessee state Legislature and Tennessee's governor decided to severely weaken the basic protections for the health, safety, and well-being of Nashvillians that were created by our local government," John Stern, president of the Nashville Neighborhood Alliance, a residents' group, says via email.

Airbnb says the Tennessee law was the work of "state lawmakers who care deeply about this issue and worked to organize a broad coalition of supporters—including the business, technology, property rights, and home sharing communities." Sexton did not return a request for comment.


Short-term rentals are growing in many cities.
Number of units listed on 54 platforms, in March of each year
2015
2016
2017
2018
2019
10,000
8,000
6,000
4,000
2,000
San Diego
Nashville
Denver
Atlanta
Chart: WIRED • Source: Host Compliance

Similar scenarios have unfolded elsewhere after cities have moved to restrict short-term rentals. In February 2016, the Austin City Council voted to phase out mini hotels in residential areas by 2022. In the following months, several other Texas cities passed similar restrictions. Then, early in 2017, Texas state lawmakers introduced two bills in the legislature preventing municipalities from banning short-term rentals and enforcing many regulations.

A few months later, in April 2017, Airbnb announced that it had signed a VCA with Texas officials to collect state occupancy taxes. Bennett Sandlin, executive director of the Texas Municipal League, which represents cities, called the deal “a smokescreen to cover the company’s refusal to pay taxes.” The 2017 bills eventually stalled in the Texas legislature, but lawmakers plan to try again this year.

Airbnb says it has “excellent working relationships” with many Texas cities and hopes to extend the VCA with the state to “new tax agreements with Texas municipalities to help them collect new revenue from home sharing.”

Where’s the Money?

Gannon, the Palm Beach tax collector, has been tilting at travel companies for a decade. In 2009, she sued Expedia, Orbitz, Priceline, and Travelocity for failing to collect and pay occupancy taxes on the full cost of the hotel rooms they were selling; three years later, the companies settled the suit and agreed to pay nearly $2 million in back taxes.

She then turned to the online home-rental companies. In 2014, she sued Airbnb, HomeAway, and TripAdvisor, alleging they should be classified as “dealers” renting accommodations under Florida law, and thus required to collect occupancy taxes on behalf of their hosts. In January, after five years, a judge ruled that the services were not dealers under Florida law and did not have to collect the taxes for hosts. Gannon is appealing the ruling.

In 2015, the Florida Department of Revenue signed a VCA authorizing Airbnb to collect and remit the 6 percent sales tax for all listings in the state, plus local sales and occupancy taxes for some counties.

Soon after, Gannon asked to see the details of the agreement; state officials told her it was confidential. So she sued the Florida Department of Revenue, alleging that the agency’s secrecy violated the state’s public records law. A few hours later, the department faxed a copy of its Airbnb VCA to Gannon’s office; she says she was instructed not to share it with anyone. It required Airbnb to provide the state only with aggregate data and allowed the company to withhold “any personally identifiable information” about hosts or guests. Most other VCAs signed with state or local governments contain identical language.

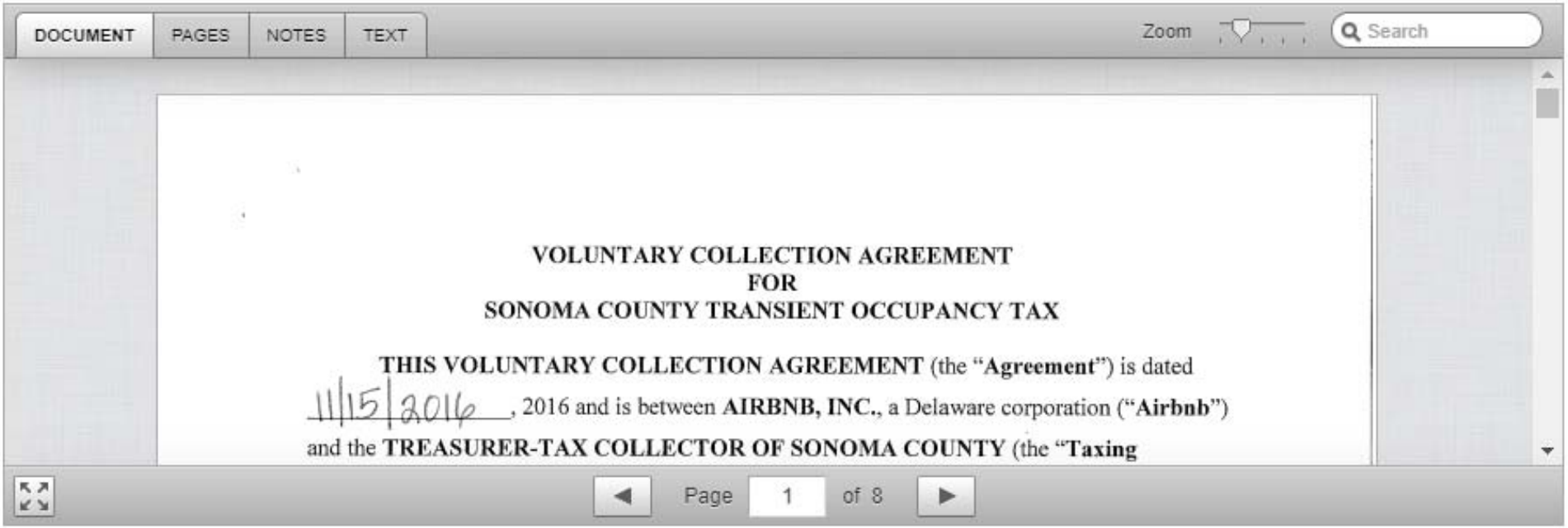
Officials say such details about hosts and their rentals are crucial to enforcing local laws and ensuring the lump sum tax payments match up with detailed data on stays. Shielding names and other details from tax officials “is a gross departure from standard practice,” says Bucks, the former tax commissioner.

"We’re the middle—the hosts are stuck in the middle.”

MARIA VALE, AIRBNB HOST IN PALM BEACH COUNTY, FLORIDA

In New Orleans, the February report by the city’s Department of Safety and Permits says Airbnb provided officials there with anonymous account numbers in place of addresses or taxpayer identifiers, making it difficult for the city to audit the information. “It is impossible to track whether we are getting all the money that we are supposed to get,” says Andrew Sullivan, chief of staff for Palmer, the New Orleans councilmember.

Airbnb disagrees. “Airbnb provides the necessary information to ensure tax payments are accurate, including number of nights, charges, and the amount of tax collected,” Nulty says. He says the company welcomes audits; however, many of the company’s VCAs prohibit cities from auditing Airbnb more than once every two years.



Airbnb's 2016 VCA with Sonoma County, California.

A Public Clash

Palm Beach County's monthly commissioners meeting is typically a dull affair. But October 16, 2018, was different.

The chambers were packed with people dressed in white, holding hot pink flyers. The reason: Gannon's proposal to amend the county's Tourist Development Ordinance to require platforms such as Airbnb to collect and remit occupancy taxes on behalf of hosts, and to share more data with the county.

A few weeks earlier, emails from Airbnb had arrived in the inboxes of its hosts in the county. "Home-sharing in Palm Beach County is under attack," many declared in bold letters, asserting that Gannon had proposed an "unfriendly" ordinance that would make hosts' lives more difficult. The emails implored hosts to attend the hearing and "use your voice to oppose this proposal and share the benefits" of home sharing.

Around 100 hosts attended the meeting. But Gannon was prepared. Having seen several of the emails, she assembled a three-page document rebutting what she calls Airbnb's "campaign of misinformation," line by line. The packet was printed on hot pink paper and given to each person who walked through the door.

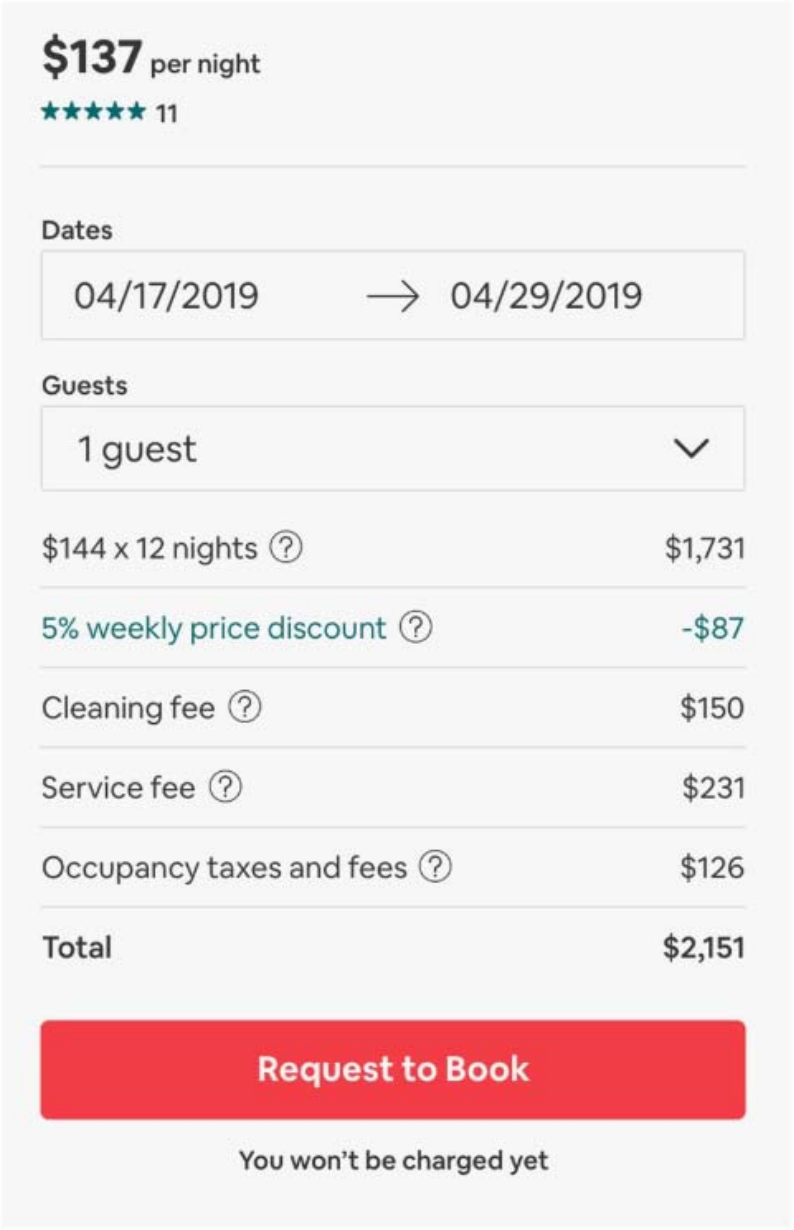
During the meeting, some hosts expressed doubts about Airbnb's position. Some recalled seeing a message from Airbnb stating that it was collecting and remitting taxes on their rentals, though the company was not. "I have this underlying fear ... that I am breaking a law that I don't really know about," said Ruth Riegelhaupt-Herzig, an Airbnb host since 2015.

"We thought Airbnb took care of everything, and I was a little scared I was in trouble with the government," host Maria Vale said at the meeting. "All I'm saying is we're the middle—the hosts are stuck in the middle."

Nulty says that Airbnb makes it clear to hosts which taxes it collects via this webpage, which lists areas with VCAs and what taxes they cover. The page does not explain which taxes hosts are required to collect on their own. A different Airbnb page instructs hosts to tell guests to bring extra money when checking in so the host can collect taxes in person. Riegelhaupt-Herzig says that isn't effective, as most guests are wary of paying an additional 6 or 10 percent directly to the host, in addition to the booking charges they paid online through Airbnb.

What's more, all stays booked in the area have a charge labeled "Occupancy Taxes and Fees" added to the final bill, because of the state's VCA. "So for us to turn around and say, 'I'm sorry, you haven't paid the occupancy tax in Palm

Beach County,' they think we're scamming them," which isn't good for a reviews-based business, Riegelhaupt-Herzig told WIRED. She says she has been paying the county occupancy tax since October out of her own pocket.



Screenshot of the confirmation for a booking in Palm Beach County, Florida, showing occupancy taxes and fees. AIRBNB

After more than an hour of testimony, commissioner Dave Kerner said Airbnb had allowed its hosts to “be misled” about paying taxes. “That is concerning,” Palm Beach County mayor Melissa McKinlay said. ”And so I will support this ordinance today.” It was approved unanimously seconds later.

In San Diego last year, Airbnb took a different tack to counter a new law. City officials had signed a VCA with Airbnb in 2015. But they grew unhappy with the setup’s lack of transparency and the inability to audit, says San Diego councilmember Barbara Bry. What’s more, Airbnb use had skyrocketed in San Diego since then. In March 2015, there were more than 2,600 rental units listed on short-term rental sites in San Diego, according to Host Compliance; by 2019, that total had soared to more than 11,500. Host Compliance says two-thirds of short-term rentals in San Diego are posted on Airbnb. Bry says that the rise of full-time investor-owned short-term rentals in residential areas has hurt enrollment in public schools, transformed neighborhoods into districts of mini hotels, and contributed to a citywide housing shortage.

Last August, the San Diego City Council passed an ordinance that banned the short-term rental of homes that aren’t the owner’s primary residence and required platforms to collect taxes on behalf of their hosts, effectively overriding their VCA. Bry says she assumed Airbnb would sue, but it didn’t. Within days, Airbnb threw its weight behind a movement to overturn the new rules through a citywide referendum.

Public records show Airbnb donated $1.1 million to a California political action committee called “Committee To Expand the Middle Class, Supported by Airbnb, Inc.” That group reported spending $300,000 to hire signature gatherers to circulate petitions opposing the San Diego ordinance. Airbnb also directly donated $276,358 to a second group around the same time, records show.

Four weeks after the city council approved the new rules, representatives of Airbnb, HomeAway, and Stand for Jobs delivered more than 62,000 signatures calling for a referendum to rescind the ordinance, nearly twice the number needed to force a citywide vote.

City councilmembers said they didn’t want to risk losing the vote, so they rescinded the ordinance, with plans to try again. “I’m disappointed that a corporation reportedly valued at $31 billion descended upon our city with its unlimited millions of dollars and used deceptive tactics to force us to where we are today,” Bry said during a council meeting on October 22, just before the council voted to rescind its ordinance.

Airbnb says the petitions garnered so many signatures because the ordinance “would have devastated the local economy, impacted property rights in every San Diego neighborhood, and cost the city millions annually in tax revenue.”

The San Diego City Council plans to introduce a new short-term rental ordinance sometime this fall, Bry told WIRED. If Airbnb challenges a new ordinance, Bry says city officials will be more prepared, and will respond with their own public-education campaign and take the contested ordinance to a public vote.

Airbnb's battles with local officials have intensified since last year's Supreme Court ruling in a case involving online retailers. Some tax experts say the decision undercuts Airbnb's position that it doesn't have to collect taxes for its hosts. "There is no doubt whatsoever now that on a constitutional basis Airbnb can be required to collect [taxes]," says Bucks. "There is no justification for these special deals anymore." Airbnb says it's monitoring state-by-state developments related to the case.

Airbnb's recent lawsuits against Palm Beach, Boston, and Miami focus on another aspect of those cities' ordinances: a requirement that platforms remove listings that don't comply with the law. Airbnb says the requirements are unconstitutional and technologically unfeasible. But the company does remove illegal listings in its hometown of San Francisco, and has conducted occasional or ongoing purges in New Orleans, Santa Monica, Japan, Berlin, Vancouver, and, briefly, New York City. In New York, Airbnb sued to block a city ordinance requiring it to turn over more detailed information on listings; a judge in January blocked the law from taking effect.

In Boston, city councilor Michelle Wu helped lead the push last year for an ordinance aimed at discouraging hosts from turning apartments and homes into mini hotels. The ordinance requires hosts to register with the city and restricts short-term rentals to owner-occupied units. "Airbnb describes itself as a quaint little home-sharing service … but the reality is that it has grown to be a corporate entity that makes millions of dollars from businesses taking advantage of loopholes and running de facto hotels," she says.

On April 17, Airbnb sent emails to thousands of Boston Airbnb users criticizing Wu. The email claimed that she was aligned with "big hotel interests" and falsely said she intended to place a "restrictive 30-day cap on unhosted stays." Wu says Airbnb never sought to discuss the ordinance or check the claims in the email. Airbnb says Wu's proposal was "anti-tenant, anti-middle class," and "overly restrictive."

Michelle Wu 吳弭
@wutrain

Interesting strategy, @Airbnb. No changes proposed since last amendment w @LydiaMEdwards. Not sure where you're getting 30-day cap, but spreading fake news doesn't bode well for credibility that you'll be a partner to the city as we work to address the housing crisis #bospoli twitter.com/chrisvillani44…

> **Chris Villani** @ChrisVillani44
> .@Airbnb has sent out an E-mail to Boston area residents urging people to call Boston City Council President @wutrain & urge her to drop what they call "unreasonable" restrictions on city rentals
>
> Hi Chris,
>
> Boston City Councilor Michelle Wu has a proposal that would place unreasonable restrictions on home sharing in the city and we need your help to stop it. She has aligned with big hotel interests against the interests of regular Bostonians. Will you use our speakout tool and send an email to Mayor Walsh and City Council today asking them to support responsible home sharing in Boston?
>
> Send an email
>
> The Wu proposal would place unnecessary restrictions on home sharing by:
>
> - Placing a restrictive 30-day cap on unhosted stays.
> - Prohibiting renters from sharing their homes, something not done anywhere else in the United States.
> - Requiring notification of neighbors and that platforms like Airbnb collect and share an invasive amount of personal information putting your privacy at risk.
>
> We know that when the collective voice of the Airbnb community

♡ 253 8:58 AM - Apr 17, 2018

138 people are talking about this

The ordinance passed in June. Four months later, Airbnb sued the city, alleging the rules—which went into effect January 1—violate state and federal laws. Wu says the city modeled its ordinance after San Francisco's, which Airbnb complies with. The Boston lawsuit—much like others recently filed by Airbnb—only challenges requirements that platforms remove illegal listings and share information with local officials to aid enforcement. The suit seeks an injunction against parts of the law, and the city has agreed not to enforce those sections until a judge rules.

A few weeks after Airbnb sued Boston, Massachusetts governor Charlie Baker signed legislation to tax and regulate short-term rentals at both the state and local levels. The law, which goes into effect in July, requires hosts to register with the state. Information about hosts—minus specific house numbers—will be displayed on a publicly available registry, and hosts who run multiple rentals must pay additional taxes. Airbnb says the law will “jeopardize the privacy of our hosts while placing significant and unnecessary burdens” on them. The company says it is working with state officials to address those concerns.

Airbnb’s municipal confrontations have been a boon for Binzer, whose company Host Compliance works with 150 cities to identify short-term rental owners skirting taxes and regulations and to devise an enforcement strategy without striking deals with Airbnb. He used to be an occasional Airbnb host himself—and paid occupancy taxes—when he lived in Tiburon, California; then he was tapped to help local officials quantify Airbnb’s business in town. He says cities are often overmatched by Airbnb, in part because the company periodically tweaks the site in ways that impede tax collectors and enforcement agencies.

For example, Binzer says that until December 2016, Airbnb included the street name of a property in the metadata attached to the listing. Airbnb’s terms of service prohibit third parties from scraping its site for this kind of information, but critics say it’s crucial for enforcement. Officials in some cities used this data to identify hidden hosts. Then Airbnb removed the street name, and altered the geocoding for listings, changing the latitude and longitude so properties appear in slightly different locations.

“It's a cat and mouse game,” Binzer says. “They literally put the pin in the wrong place of where the actual property is.”

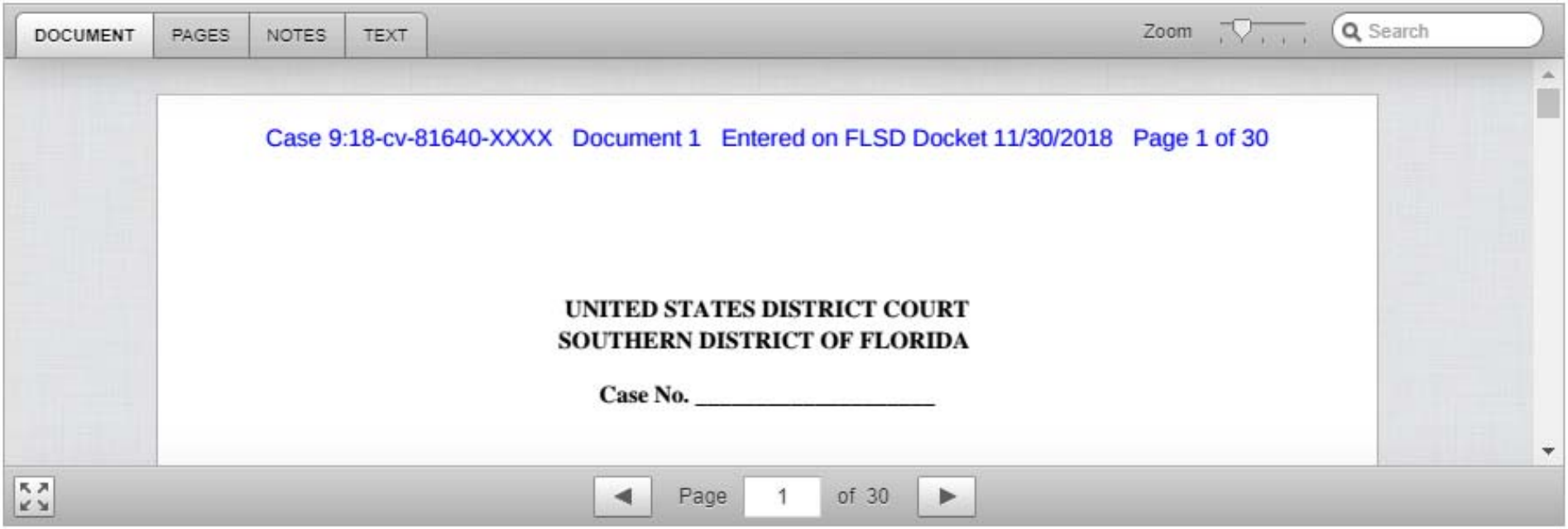
Airbnb says it shields the street name and other personal information related to hosts “to ensure an added level of privacy when third-party scrape sites aim to compile listing information.”

From Negotiation to Litigation

Around the time Palm Beach County Commissioners passed the short-term rental tax ordinance in October, Gannon says she spoke with a representative from Airbnb. She recalls the company floating a gradual implementation strategy: Airbnb would comply with some of the new rules immediately, but others—like a system requiring hosts to be properly registered with tax authorities—would be phased in over time.

Gannon thought that seemed reasonable, as long as Airbnb collected and paid the taxes. But she didn't have time to see the discussion through. A month and a half after the ordinance was passed, Airbnb sued the county. The suit argues Airbnb can't be required to police illegal listings and share host information because "Airbnb is a realization of Congress's [free speech] goals" and a "classic intermediary." It doesn't question whether the company can be compelled to collect occupancy taxes; Airbnb is not collecting them in the county, though the ordinance went into effect on January 20. HomeAway also sued the county; the suits have since been combined.

"They were just stringing us along until they had their lawsuit ready to file," Gannon says. "It's typical of Airbnb … They're getting ready to issue an IPO and go public."



Airbnb's lawsuit against Palm Beach County, Florida.

Updated 3-21-2019, 5:30 pm EDT: This story was updated to clarify the relationship between the American Hotel and Lodging Association and Airbnb, to clarify a characterization of Airbnb's corporate citizenship, and to add a comment clarifying Airbnb's position about its cooperation with the city of New Orleans. The updated story also makes clear that HomeAway was among the companies that helped draft a Tennessee law and that HomeAway has sued Palm Beach County.

Updated 4-5-2019, 4:50 pm EDT: This story was updated to correct the amount Airbnb spent to oppose a San Diego ordinance.

Updated 4-12-2019, 6:00 pm EDT: This story was updated to incorporate additional comment from Airbnb regarding the company's stance on collecting taxes.

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

Subject: Short term rental bond analysis

From: John Mazza
Sent: Monday, October 28, 2019 11:02 AM
To: Heather Glaser <hglaser@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Skylar Peak <speak@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Mikke Pierson; Jefferson Wagner; Skylar Peak;
Subject: Short term rental bond analysis

Comment on borrowing to fill a shortfall in finances

I have been investing and analyzing financial instruments since 1956 and have been a mutual fund manager and financial principal and CFO of a New York Stock Exchange member. This analysis is a short version of why you need not worry about the finances of the city in the short and medium term,

1. The staff report on page five states:

By strictly adhering to the City's General Fund Undesignated Reserve Policy and achieving its reserve goal, the City was in a strong financial position at the beginning of Fiscal Year 2018-2019. On July 26, 2018, S&P Global Ratings assigned the City of Malibu an "AA+" rating and affirmed its "AA+" long-term rating and its "AAA" issuer credit rating (ICR) on the City. Years of conservative financial planning and Malibu's resulting fiscal strength has enabled the City to withstand the immediate financial impact of the 2018 Woolsey Fire. However, the financial impact of the Woolsey Fire, the subsequent winter storms and the rebuilding process, including the waiving of fees for all rebuilding services and the addition of contract personnel to assist the community with rebuilding, have weakened the City's fiscal position. Looking ahead, this situation is made worse by a combination of an increase in debt service from the 2018 purchase of vacant land and the expected increase to City's contract with Los Angeles Sheriff's Department in Fiscal Year 2023. Taking into account the loss of revenue from a complete short-term rental ban or a 50 percent ban, further exacerbates the City's weakened financial position.

This need not concern you for several reasons. One of the options you are given is to reduce current spending. Spending increased from 2017-18 ($27,121,399) to a projected $33,839,670 for 2019-2020 not including property acquisition. That is a 24.7% increase which surely could be trimmed.These numbers are from the 2019-20 adopted budget .

Fortunately for the city and its bond rating , rating agencies take a long view on revenue and factor in non recurring events. After the Woolsey fire the market did not adjust the yields on cities involved.

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

How bonds are rated

https://www.investopedia.com/ask/answers/09/bond-rating.asp

Market fire response:

https://www.bondbuyer.com/news/california-fires-not-causing-a-municipal-market-sell-off

Why the bond rating is very unlikely to change;

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

From the staff report

Both the City's reserve policy and goal far exceed the reserve levels of most municipalities. By strictly adhering to the City's General Fund Undesignated Reserve Policy and achieving its reserve goal, the City was in a strong financial position at the beginning of Fiscal Year 2018-2019. On July 26, 2018, S&P Global Ratings assigned the City of Malibu an "AA+" rating and affirmed its "AA+" long-term rating and its "AAA" issuer credit rating (ICR) on the City. Years of conservative financial planning and Malibu's resulting fiscal strength has enabled the City to withstand the immediate financial impact of the 2018 Woolsey Fire.

What if the city needs to borrow money and the bond rating changes ? How much would it cost.

In the very unlikely scenario that the bond rating is lowered one notch to AA the current market differential is approximately .2 percent (.002 rate). If the city were to borrow $10,000,000 the differential cost would be $10,000,000X .002 or $20,000.

Does it make sense to destroy our neighborhoods for the unlikely excess cost of $20,000 ?

John Mazza

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

Subject: Short term rentals comments

From: John Stiegler
Sent: Monday, October 28, 2019 10:41 AM
To: Justine Kendall <jkendall@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Skylar Peak <speak@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>
Subject: Short term rentals comments

COMPLAINTS
It is important to know if there have been any reported nuisance complaints related to a short term rental year to date.
On the city;s web site under Short Term Rental Ordinance, there is a section "Report A Nuisance" which gives two phone numbers to call 805-495-7521 during business hours and 805-732-9433 after hours.
My findings after speaking to both representatives is that there were no nuisance complaints year to date in my area on Cliffside Dr. in Point Dume. The gentleman that answered the business hours hot line mentioned that there were two houses that getting complaints one on Broad Beach and one on Rancho Pacifica. These two owners are doing whatever they want regardless of what rules are in place. I spoke to a previous Malibu lead Sheriff. He had responded to these party houses. He said that it was ambiguous whether violations could be given and the fines that are associated with noise ordinance violations are to low verses the rent revenue.
Why should a few bad apples be allowed to affect so many others.

NON-RESIDENT
Re-define Non-Resident to allow long time Malibu owners that do not live on their properties with no nuisance complaints or violations to continue doing short term rentals all year round. The income that is generated allows them to keep the property for their family use.These long time Malibu families have good relations with their neighbors and are part of the fabric of Malibu.Many would get hurt.

LOCAL BUSINESS
After the fire it is obvious that are there are less local people in Malibu going to the restaurants and other businesses.Short term guests spending money at local businesses is important.

Thank you, John Stiegler

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Kraig Hill

October 25, 2019

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

City Council
City of Malibu
23825 Stuart Ranch Road
Malibu, California 90265

Re. Item 5.A – Short-Term Rentals

Dear Council members,

This is a big topic – so, sorry, you get seven pages here. After some introductory notes, this memo addresses how the STR issue measures up against the City's General Plan and the Zoning Ordinance. It then considers several issues of community and finance – issues both qualitative and quantitative. It wraps up with some specific recommendations.

Please don't imagine that the compromise to make is between the Santa Monica ordinance and the corporate airbnb agenda. **The Santa Monica ordinance is itself the reasonable compromise.**

The cultural and legal climates have changed significantly since the City Council last considered Short Term Rentals, on Sept. 26, 2018. The context has changed – in ways that they City's financial team appears not to fully appreciate. Since that date:

- Many more residents have "horror stories" about nearby rentals.
- All candidates for Council in November 2018, including winners Farrer and Pierson, called for at least some further regulation of STR's.
- The Woolsey Fire increased the need for housing of displaced residents (many of whom will soon deplete their insurance's housing allowances); they should be preferred over transient vacationers.
- Blanket bans or tight restrictions on STR's have been imposed in other locales, including Santa Monica, WeHo and Laguna, withstanding legal challenge.
- The city's recent deliberations about "mansionization" have led us to a more sophisticated understanding of *neighborhood*, and in turn, to the realization that STR's have a similar negative effect on community.
- Several hotels in the planning stage (Haynie, Burdge/Hakim) would provide the City as much in Transient Occupancy Tax as do current STR's.
- The Raftelis Financial Consultants report has been roundly criticized by the public for portraying no more than a small segment of the total financial picture – yet the current staff report relies on it as though there's nothing wrong with it.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

STR's and the General Plan

To understand how STR's interact with the applicable legal code, let's first look at the full frame: the General Plan, which is in essence the Constitution of our City. Within it, the *Vision Statement* and *Mission Statement* are the source from which our City's own code flows (which comports with state law, of course, as expressed through the LCP). STR's violate these two fundamental statements in our General Plan in multiple ways.

The Vision Statement embodies several ideals. Here it is in its entirety (with my underlines):

> "Malibu is a unique land and marine environment and residential community whose citizens have historically evidenced a commitment to sacrifice urban and suburban conveniences in order to protect that environment and lifestyle, and to preserve unaltered natural resources and rural characteristics. The people of Malibu are a responsible custodian of the area's natural resources for present and future generations."

Let's unpack that, parsing the phrases that pertain to STR's without distorting their plain meanings.

The first sentence of the Vision — the very first sentence of the whole General Plan — decrees that "Malibu is a unique land and marine environment and residential community." That's what Malibu is, most essentially; everything that follows just fills in the details. Notably, that establishing clause does not include *commercial districts* as an essential part of the city's identity. We have them only to the extent that they serve, and are subservient to, our residential communities. Now, STR's are both a commercial function and expressly not *residential* as defined by the zoning code (discussed below). **So, to the extent that STR's impinge on our residential community, they violate the General Plan's most fundamental definition of our City.**

In the next clause, the Vision states that "citizens have historically evidenced a commitment to sacrifice urban and suburban conveniences in order to protect that environment and lifestyle." What is "that lifestyle"? It can only be in reference to the preceding clause in the sentence: the "unique residential community." That is, our citizens are committed to sacrificing urban and suburban conveniences in order to protect our unique residential community. **By definition, "that lifestyle" that we're committed to protect is not commercial.**

The Vision goes on, "The people of Malibu are a responsible custodian of the area's natural resources for present and future generations." **To say that we are "responsible custodians...for present generations" means that we have a duty *to each other*** to take care of "the area's natural resources." But if we are not here living in a house that we own, and have instead rented that house to a stranger unfamiliar with the area's natural resources, then we have abdicated our legal duty to be responsible custodians. To state the most obvious example, if we are not residing in a given neighborhood, we can't play our expected role in that neighborhood's fire response plan.

Through our Vision Statement, **we have imposed an obligation upon ourselves "to protect our environment and lifestyle."** But if nobody is actually *living* in a given house, then there is no *lifestyle* there to protect. Nor can a transient stranger be expected to help protect the lifestyle of the rest of the neighborhood.

The Mission Statement follows, telling us in broad terms how the Vision Statement is to be implemented. Here's the whole thing (skim it if you already have it memorized):

> "Malibu is committed to ensure the physical and biological integrity of its environment through the development of land use programs and decisions, to protect the public and private health, safety and general welfare.
> Malibu will plan to preserve its natural and cultural resources, which include the ocean, marine life, tide pools, beaches, creeks, canyons, hills, mountains, ridges, views, wildlife and plant life, open spaces, archaeological, paleontological and historic sites, as well as other resources that contribute to Malibu's special natural and rural setting.
> Malibu will maintain its rural character by establishing programs and policies that avoid suburbanization and commercialization of its natural and cultural resources.
> Malibu will gradually recycle areas of deteriorated commercial development that detract from the public benefits or deteriorate the public values of its natural, cultural and rural resources.
> Malibu will provide passive, coastal-dependent and resource-dependent visitor-serving recreational opportunities (at proper times, places and manners) that remain subordinate to their natural, cultural and rural setting, and which are consistent with the fragility of the natural resources of the area, the proximity of the access to residential uses, the need to protect the privacy of property owners, the aesthetic values of the area, and the capacity of the area to sustain particular levels of use."

Malibu's first commitment is to its police power, "to protect the public and private health, safety and general welfare." STR's confer no benefit to assist the City's in exercising that police power. On the other hand, substantial testimony from neighbors all over the City demonstrates that **STR's do sometimes pose a threat to health, safety and welfare.** (I myself have been unable to shut down a loud bachelor party happening next door at 4:30 AM; lack of sleep ruined my whole next day).

In that regard, a owner-occupied requirement could provide a reasonable accommodation, whereas an on-call 24/7 representative would be too-little-too-late in most situations. A household "authority" must be present at all times.

The Mission Statement speaks of "cultural resources" several times. It enumerates some that must be "preserved" (such as archeological and historical sites), including among them cultural resources which "contribute to Malibu's special ... rural setting." We've already seen in the Vision Statement that the commercial function of STR's in residential neighborhoods runs against our "commitment to sacrificing urban and suburban conveniences" in order to protect "our unique residential community." So here the "other cultural resources" which contribute to our rural lifestyle must be inherent somewhere in our residential communities, our neighborhoods, in our people themselves. Can an STR be a cultural resource? Not without stretching the definition beyond the breaking point. Indeed, **STR's tend to displace the cultural resources in our neighborhoods, which we are meant to preserve.**

The Mission Statement does state that the City will provide "visitor-serving recreational opportunities." That sounds like something that might complement or even enable an STR. But it constrains those opportunities, and makes it clear that **the phrase "visitor-serving" applies only to recreational activities.** So it doesn't provide legal cover for an STR. Plus, those activities must not disturb our residential neighborhoods: they must be "passive;" they must be regulated as to "time,

place and manner;" they must "remain subordinate" to the "cultural and rural setting," must be consistent with the proximity of residential uses, "the need to protect the privacy of property owners, the aesthetic values of the area, and the capacity of the area to sustain particular levels of use." **The fact that the City's Mission Statement so tightly restricts visitor-serving recreational opportunities in our neighborhoods underscores that it doesn't contemplate permitting other visitor-serving functions in our neighborhoods**, reserving them instead to our commercial districts and recreational areas.

At the very worst, all of those enumerated constraints mean that there can be nothing too recreational about an STR: no parties, no strolling through the 'hood, nothing that's not "passive" and which doesn't "remain subordinate" to the "cultural and rural setting" of the neighborhood.

STR's and Single-Family Residential Zoning

As in much of the United States, Malibu uses a variety of zoning designations, among which are several typical "single family residential" designations. The staff report is correct in identifying this as significant, but mischaracterizes the current legal state of the art, in stating:

> "The issue of whether or not STRs are a permissible use in residential zones is open to interpretation....the issue becomes whether that use is reasonably like a single-family home (because people use it for the same general purposes as permanent or long-term renters) or whether it is a whole new use (because it is transient and not residential in character)."[1]

Actually, the issue is largely decided, with any interpretation left only for marginal matters. In 1977, the **US Supreme Court case** *Moore v. City of E. Cleveland, Ohio*[2] recognized that "state decisions regarding residential zoning ordinances generally require, *inter alia*, 'that **a single family home be occupied only by a 'single housekeeping unit,' and for such households to remain non-transient'**."[3] Subsequent state courts across America have upheld and fleshed out that conclusion, for instance, working out the definition of a "single housekeeping unit." The latest court to do so was the Pennsylvania Supreme Court in its ruling *Slice of Life, LLC v. Hamilton Township*, on April 26, 2019.[4]

In *Slice of Life*, the court observed that "single housekeeping unit" has evolved into a term of art applied in jurisdictions across America, and refers to what is a functional family, whether related by blood or not – and expressly not transient. Indeed, in its decision the Court relied on a federal appeal which held that *any stay of less than 6 months* provides "a level of instability and transience simply incompatible with the single-family concept."[5]

Rather than write a whole law review article, I'll let a few snippets from the court's decision give you its overall intent. [Granted, it would be nice to cite some California or 9th Circuit cases here but

1 Staff Report, at 3 of 11.
2 431 U.S. 494 515-19 (1977).
3 As cited in *Slice of Life, LLC v. Hamilton Township,* Sup Ct of Pennsylvania [J-97-2018] No. 7 MAP 2018, Appeal from the Order of Commonwealth Court at No. 941 CD : 2016 dated June 21, 2017.
4 *Slice of Life, op cit*.
5 *Albert v. Zoning Hearing Bd. of N. Abington Twp.*, 854 A.2d at 402.

I haven't looked, and since the PA Supreme Court is citing as precedent the U.S. Supreme Court case from 1977 (*Moore*), any differences that have since developed in our jurisdiction can be only *interpretations* of that original holding: **a "single housekeeping unit" is expressly not transient.]**

The Pennsylvania court found Hamilton Township's zoning ordinance does not permit the "purely transient use" of a house in a residential area of single-family homes. In a *unanimous* ruling, the court said the lower court had improperly found that any use not specifically prohibited by a zoning ordinance was deemed permitted.[6]

The court also found, "The establishment of residential zoning districts has long been recognized as a valid exercise of a municipality's police power…**Non-family uses, including fraternity houses and boarding houses, have been found to be antithetical to the 'residential character'**."[7]

The 1977 Sup Ct. case is settled law, fleshed out by various courts, including the recent PA Sup Ct. So, if the City were to permit *any* STR in a single-family residential zone and local residents were to challenge it legally on that basis, the City would certainly lose. Of course, if the City were to take the practical path of the Santa Monica Home Sharing Ordinance, there would be few if any parties left to challenge it on that basis. With the majority being "mom n' pop" resident owners allowed to run STR's, only the corporate owners, e.g., airbnb, might have a claim; yet they have already taken Santa Monica to the 9th Circuit Court and lost. **So the Santa Monica ordinance can be considered reasonably bulletproof.**

In the very worst case scenario, consider the psychology (mood and well-being) of the city in two different scenarios: (1) if the residents have to form a coalition to sue the City, or (2) if the residents are supporting the City in a suit brought by a corporate STR company. If the City fears it could get sued either way, which would be the more righteous fight?

A lesson from the "Mansionization" discourse

The recent discourse on "mansionization" clarified a few things relevant to STR's. Note that neither the City Council nor Planning Commission has addressed STR's since prior to all that discussion – so you might now find yourself looking at STR's in a different light.

For many who listened closely to the mansionization debate, it became clear that the "evil" is not big houses *per se* (as some of the pro-development crowd disingenuously portrayed the issue). Rather, it's that houses above 7-8,000 sq.ft TDSF tend to destroy a neighborhood's sense of *community.* They do this because they're not designed, bought or lived in by "single families" (as specified by the zoning). Instead, they're sold as *commodities*, held as investments or flipped to the next investor (max TDSF yields max profit). Or in some cases they're made into rehabs, party houses or other sorts of *de facto* hotels. In all cases, the house lacks a family living in it; and **every house without a family means one less neighbor in the 'hood.**

STR's bring a similar degradation of community. In my neighborhood of 30 homes, within the past three years, five homes have been converted to Airbnb's (or the like) and another five or so are

6 *Supra*, note 3.
7 *Supra*, note 3.

now held as investments and are uninhabited. So in only a few years, 1/3 of my neighbors have vanished. For example, two close neighbors, with whom in past years I was prepared to fight brush-fires, recently sold their homes, and the new buyers have set up Airbnb's. My new, ever-changing "non-neighbors" don't have the turnout gear, radios, firehose, knowledge or desire to put out a fire – indeed, they're more likely to *start* one. **I used to live in a neighborhood; now I'm living in an increasingly commercial district partly populated by noisy, uncaring strangers.**

The situation is not egregious when the owner lives on-site (and is renting out just a room or a guest house; more on "primary residence" below). But Host Compliance's data shows that that's a rare occurrence in Malibu: "94 percent of the city's short-term rentals are for *entire* homes." (Staff Report, p. 3 of 13). So it's not a bunch of retired folks making ends meet. It's commercialized, even corporatized owners devouring our neighborhoods for profit.

Staff's recommendation of a "24/7 contact that can address STR issues" does not address the fundamental problem at all.

<u>Revenue shortfall?</u>

Once you start down the road of weighing revenues and costs, the threshold question should be: IF a ban on non-resident-owned STR's would lead to a revenue shortfall of roughly $2.5 million per year, and IF that entire amount must be recouped immediately, then what part(s) of the City's total budget could be trimmed to compensate? The City should be answerable to its resident's needs in order of priority, and there has been no decision made that permitting corporate STR's for their revenues represents the citizens' highest, best priority as compared to other potential budget cuts.

Stated another way, given that ~$2.5 million represents roughly 5% of the City's overall budget (~$50 million), what exactly does that 5% pay for, such that it's worth commercializing and anonymizing residential neighborhoods? Is that 5% worth the substantial degradation of community that has been occurring as STR's have proliferated? **What would that 5% be buying that's worth more than the lost quality of life in our neighborhoods?**

Meanwhile, the assumption that a 5% loss of revenue would occur is merely speculative; and even if were to occur, **other sources will be generating replacement revenues soon enough**. Recall that the payments for the ~30 acres purchased last year will not kick into high gear for another four years. There's no need to panic, as a lot will happen in that time towards generating more revenue.

At the moment, **three large hotels are in the planning stages.** Norm Haynie's conversion of his office building will likely be open in a few years (much of the proposed work is relatively cosmetic). He expects to have 36 rooms, for which he expects to remit a TOT of $1 million per year; to be conservative, let's call that $800k. Doug Burdge and Steven Hakim's proposed motel next to the Malibu Inn will be somewhat smaller, so may be expected to generate ~$500k in annual TOT. And Hakim plans to convert the Malibu Vista building (next to Norm's building) into a hotel which would have at least 60 rooms.[8] That would generate on the order of $1.2 million in TOT. Adding it up, **those three hotels alone will be generating a total TOT of $2.5 million, an amount comparable to what the City is currently receiving.**

8 Per conversation today with S. Hakim.

Of course, in a primary residence regime the City will still be receiving TOT from those owner-occupiers. That would likely provide **another ~10% on top of the hotel TOT** (or $200-300k).

Plus, better enforcement, achieved through proposed code revisions (e.g., implementing the Laguna Beach requirement of licensing STR *advertising*) and re-prioritized efforts of CE officers, can capture TOT revenue that is currently slipping under the radar. I've heard multiple credible rumors, which should be easy enough to substantiate, that STR's are being arranged directly through realtors, under the table, without any public advertising. A transient client can call up a realtor and ask, "Waddaya got," and be offered what is essentially a bootleg STR experience. **If identified and regulated, that trade might generate another few hundred thousand in TOT.**

When all three hotels are completed, **the combined items in the three paragraphs above will generate over $3mil in annual TOT.** Meanwhile, within the critical next four years, at least one of the hotels will be online, possibly two; the mom n' pop STR TOT will continue; and improved enforcement will generate something extra too. In the worst case scenario, within four years, the City will already be receiving *most* of the current $2.5 mil annual TOT. **So there's no basis to consider loss of corporate STR TOT as irreplaceable.**

Recommendations

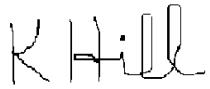
The Santa Monica "Home Share" model looks to be the most realistic approach. It will address at least 90% of the problem, and has withstood appellate legal challenge. Any modifications to it should not be so extreme as to sacrifice that “teflon” quality.

For effective, inexpensive enforcement, the City could borrow from Laguna Beach the requirement of a license to *advertise* an STR. A compliance officer can check online listings, and if an ad appears not to be licensed, they can call or email to get the address and determine the identity of the owner. The fine is something like $100 for the first violation, $500 for the next. One virtue is in minimizing the need to be paying a code enforcement officer to be on duty 24/7.

The current best practice, based on what's happening in other cities (see Lustig), is to dismantle the tax deal that gives preference to Airbnb, to treat all platforms equally. Then require all platforms and their subsidiary websites to collect and remit TOT, and to report transactions to the City in a standardized format. Investigate and crack down on realtor-direct, non-advertised STR's.

Prohibit all events, parties, and commercial use during guest use of the short-term rental. No special event permit or film permit shall be obtained for an event occurring at dwelling unit during any period of guest occupancy.

Respectfully,



Kraig

Kelsey Pettijohn

Subject: Short Term Rental Ordinance - Coastal Commission Supports Short term rentals
Attachments: 12-16-16 Coastal Commission stance of vacation rental ban.pdf; Coastal Commission tells Del Mar to expand short-term rentals - The San ....pdf; Coastal Commission rejects Laguna Beach ban on short-term rentals in res....pdf

RECEIVED
OCT 28 2019
CITY CLERKS OFFICE

From: Kathryn Morea
Sent: Monday, October 28, 2019 11:17 AM
To: Justine Kendall <jkendall@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; lrosenthal@malibucity.org; Jessica Thompson <jthompson@malibucity.org>; Skylar Peak <speak@malibucity.org>; Lou Lamonte <llamonte@malibucity.org>
Subject: Re: Short Term Rental Ordinance - Coastal Commission Supports Short term rentals

Dear City Council,

I would like to point out the answers to a few of the agenda items to be discussed in tomorrow's City Council meeting:

3) Discuss whether an amendment to the Local Coastal Plan is necessary for a short-term rental ban; - According to the Coastal Commission, this is absolutely a change in the LCP and requires Coastal Commission Approval. (see 12/16/16 letter from Coastal Commission attached)

4) Discuss approaches of other coastal cities that have legislated short term rentals and associated litigation in those cities; Other coastal cities that have attempted to implement a complete ban have had their LCP's rejected such as Laguna Beach (see attached news article) or Del Mar, which was told by Coastal Commission that they must expand short term rentals (see attached). In Santa Barbara, a judge ruled against a vacation rental ban (see attached).

I have attended many of the planning commission and City Council meetings regarding short term rentals, which have existed in Malibu for decades. I believe a fair and well thought out ordinance can weed out the bad players. An entire ban on short term rentals would have dire consequences for many homeowners who depend on the rental income in order to keep their property. Additionally, the Coastal Commission would not support a full ban. Please see the attachments regarding Coastal Commission stance on Short term rentals.

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

Kathryn Morea, Malibu homeowner and Airbnb host

On Sun, Oct 27, 2019 at 10:41 PM Kathryn Morea wrote:

> Dear City Council,
>
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CC: Council; CM; CA; PL; Ref. Binder; Original to 10/28/19 Agenda File

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Kathryn Morea, Malibu homeowner and Airbnb host

STATE OF CALIFORNIA – NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *GOVERNOR*

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105- 2219
VOICE (415) 904- 5200
FAX (415) 904- 5400
TDD (415) 597-5885

December 6, 2016

TO: Coastal Planning/Community Development Directors

SUBJECT: Short-Term/Vacation Rentals in the California Coastal Zone

Dear Planning/Community Development Director:

Your community and others state and nationwide are grappling with the use of private residential areas for short-term overnight accommodations. This practice, commonly referred to as vacation rentals (or short-term rentals), has recently elicited significant controversy over the proper use of private residential stock within residential areas. Although vacation rentals have historically been part of our beach communities for many decades, the more recent introduction of online booking sites has resulted in a surge of vacation rental activity, and has led to an increased focus on how best to regulate these rentals.

The Commission has heard a variety of viewpoints on this topic. Some argue that private residences should remain solely for the exclusive use of those who reside there in order to foster neighborhood stability and residential character, as well as to ensure adequate housing stock in the community. Others argue that vacation rentals should be encouraged because they often provide more affordable options for families and other coastal visitors of a wide range of economic backgrounds to enjoy the California coastline. In addition, vacation rentals allow property owners an avenue to use their residence as a source of supplemental income. There are no easy answers to the vexing issues and questions of how best to regulate short-term/vacation rentals. The purpose of this letter is to provide guidance and direction on the appropriate regulatory approach to vacation rentals in your coastal zone areas moving forward.

First, please note that vacation rental regulation in the coastal zone must occur within the context of your local coastal program (LCP) and/or be authorized pursuant to a coastal development permit (CDP). The regulation of short-term/vacation rentals represents a change in the intensity of use and of access to the shoreline, and thus constitutes development to which the Coastal Act and LCPs must apply. We do not believe that regulation outside of that LCP/CDP context (e.g., outright vacation rental bans through other local processes) is legally enforceable in the coastal zone, and we strongly encourage your community to pursue vacation rental regulation through your LCP.

The Commission has experience in this arena, and has helped several communities develop successful LCP vacation rental rules and programs (e.g., certified programs in San Luis Obispo and Santa Cruz Counties going back over a decade; see a summary of such LCP ordinances on our website at:
https://documents.coastal.ca.gov/assets/la/Sample_of_Commission_Actions_on_Short_Term_Rentals

.pdf). We suggest that you pay particular attention to the extent to which any such regulations are susceptible to monitoring and enforcement since these programs present some challenges in those regards. I encourage you to contact your local district Coastal Commission office for help in such efforts.

Second, the Commission has not historically supported blanket vacation rental bans under the Coastal Act, and has found such programs in the past not to be consistent with the Coastal Act. In such cases the Commission has found that vacation rental prohibitions unduly limit public recreational access opportunities inconsistent with the Coastal Act. However, in situations where a community already provides an ample supply of vacation rentals and where further proliferation of vacation rentals would impair community character or other coastal resources, restrictions may be appropriate. In any case, we strongly support developing reasonable and balanced regulations that can be tailored to address the specific issues within your community to allow for vacation rentals, while providing appropriate regulation to ensure consistency with applicable laws. We believe that appropriate rules and regulations can address issues and avoid potential problems, and that the end result can be an appropriate balancing of various viewpoints and interests. For example, the Commission has historically supported vacation rental regulations that provide for all of the following:

- Limits on the total number of vacation rentals allowed within certain areas (e.g., by neighborhood, by communitywide ratio, etc.).
- Limits on the types of housing that can be used as a vacation rental (e.g., disallowing vacation rentals in affordable housing contexts, etc.).
- Limits on maximum vacation rental occupancies.
- Limits on the amount of time a residential unit can be used as a vacation rental during a given time period.
- Requirements for 24-hour management and/or response, whether onsite or within a certain distance of the vacation rental.
- Requirements regarding onsite parking, garbage, and noise.
- Signage requirements, including posting 24-hour contact information, posting requirements and restrictions within units, and incorporating operational requirements and violation consequences (e.g., forfeit of deposits, etc.) in rental agreements.
- Payment of transient occupancy tax (TOT).
- Enforcement protocols, including requirements for responding to complaints and enforcing against violations of vacation rental requirements, including providing for revocation of vacation rental permits in certain circumstances.

These and/or other provisions may be applicable in your community. We believe that vacation rentals provide an important source of visitor accommodations in the coastal zone, especially for larger families and groups and for people of a wide range of economic backgrounds. At the same time we also recognize and understand legitimate community concerns associated with the potential adverse impacts associated with vacation rentals, including with respect to community character and noise

and traffic impacts. We also recognize concerns regarding the impact of vacation rentals on local housing stock and affordability. Thus, in our view it is not an 'all or none' proposition. Rather, the Commission's obligation is to work with local governments to accommodate vacation rentals in a way that respects local context. Through application of reasonable enforceable LCP regulations on such rentals, Coastal Act provisions requiring that public recreational access opportunities be maximized can be achieved while also addressing potential concerns and issues.

We look forward to working with you and your community to regulate vacation rentals through your LCP in a balanced way that allows for them in a manner that is compatible with community character, including to avoid oversaturation of vacation rentals in any one neighborhood or locale, and that provides these important overnight options for visitors to our coastal areas. These types of LCP programs have proven successful in other communities, and we would suggest that their approach can serve as a model and starting place for your community moving forward. Please contact your local district Coastal Commission office for help in such efforts.

Sincerely,



STEVE KINSEY, Chair
California Coastal Commission

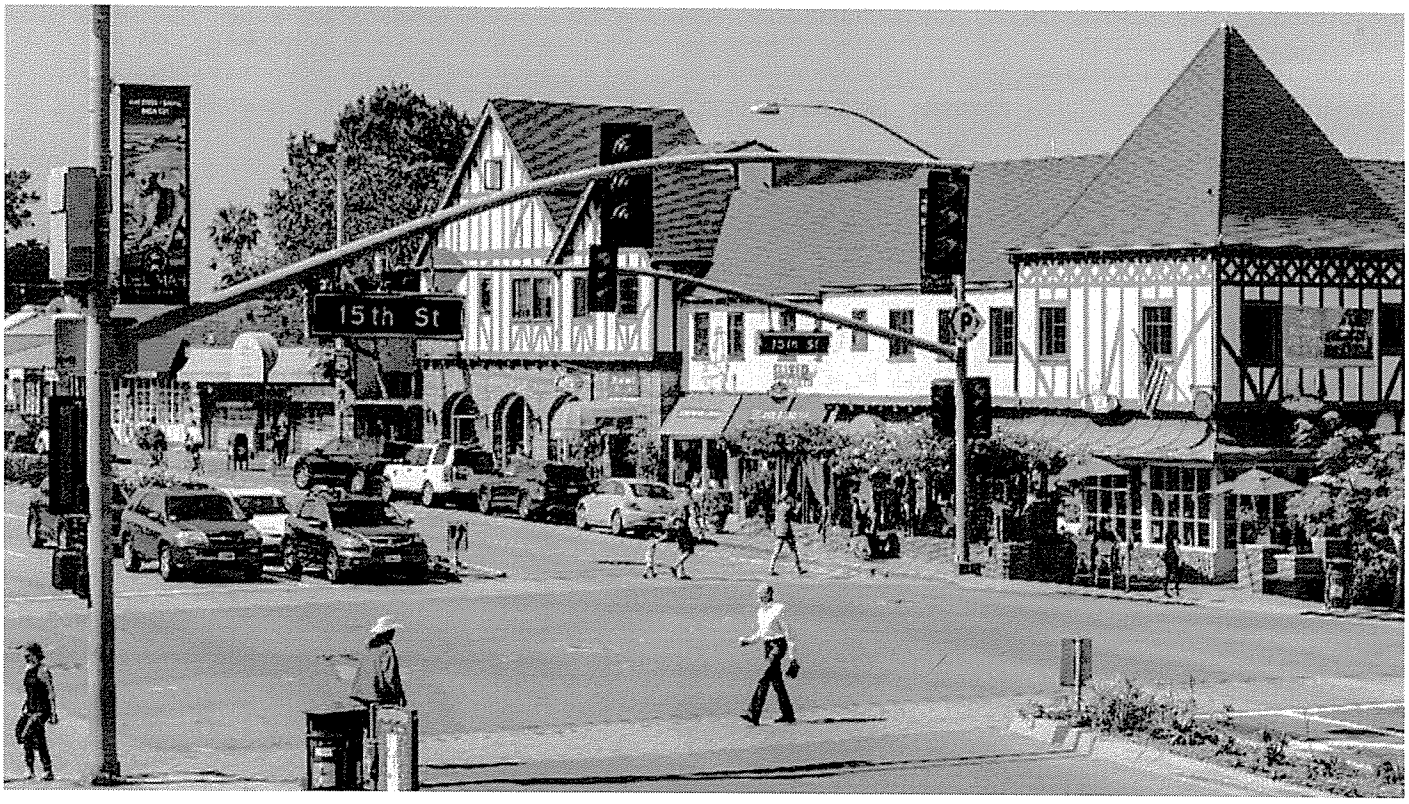
The San Diego Union-Tribune

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NORTH COUNTY

Coastal Commission tells Del Mar to expand short-term rentals



Pedestrians navigate the intersection of 15th Street and Camino Del Mar in Del Mar. The city is trying to limit short-term vacation rentals. (Union-Tribune file photo by Eduardo Contreras)

By PHIL DIEHL

JUNE 17, 2018
6 AM

Del Mar cannot limit short-term vacation rentals to just 28 days a year, the California Coastal Commission has decided.

The commission has rejected the city's proposed short-term rental ordinance, saying Del Mar should let residents rent out their homes for as many as 100 days a year. The commission also said the city should allow minimum stays of only three days, not the

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"It was kind of half a loaf," Del Mar Mayor Dwight Worden said Thursday. "It's not what we asked for, but we are going to be evaluating all our options."

The commission's staff had recommended a cap of 180 days, but after a brief discussion at its June 7 meeting in Chula Vista, the commissioners settled on 100 days. The city has six months to revise its proposal and return to the state agency, which oversees coastal access and development.

The Coastal Commission has said repeatedly over the years that restricting short-term rentals limits access to the beach by making it harder for people with average incomes to vacation on the coast.

Steve Padilla, a Chula Vista councilman and one of the 12 voting members appointed to the commission, said at their meeting that he was "deeply concerned" by assertions by some Del Mar residents that short-term rentals will never be affordable in Del Mar. The state Coastal Act requires beach access for all segments of the population.

"I'm not aware that there is an exemption to the statute for wealthier communities," Padilla said. "That's a real problem for me."

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Powerhouse Park is a popular destination in Del Mar, which has proposed an ordinance to limit short-term vacation rentals. (Union-Tribune file photo by Eduardo Contreras)

Few people are happy with Del Mar's proposed short-term rental ordinance. For decades, the city has allowed the rentals to continue unregulated.

Now, with the rise of online rental services, such as Airbnb and VRBO, Del Mar and other coastal and resort communities are trying to develop new rules for vacation rentals.

Short-term rentals often bring noise, trash and crime to older, quiet neighborhoods, some residents say. However, owners who offer short-term rentals say their tenants tend to be vacationing families who are peaceful and neat, and are familiar faces who often return year after year..

Some residents say the advent of online rentals has not increased the number of rooms available in Del Mar, only moved the rentals into more established neighborhoods where the long-time residents oppose them.

"We have obligations to protect our residential neighborhoods," Worden said.

Also, Worden and others have said that switching from long-term occupants to short-term renters sacrifices much-needed housing that otherwise would be available to permanent residents.

Commission staffers said the issue of affordable,ong-term housing should be kept separate from short-term rentals.

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"Why have a cap on it at all?" resident Lory Trombly said Thursday. "People want to come here all year long. One hundred days is not enough in a city that's a resort town, that has all kinds of activities going on all year long."

Resident Betty Wheeler spoke to the commission in support of the city's proposal, saying the short-term rentals often turn out to be more expensive than advertised. Many of them are booked at rates higher than those displayed, which are often per bedroom for a rental with multiple rooms.

"It is a pipe dream that these STRs are providing affordable overnight services for visitors," Wheeler said.

Renting any room in Del Mar is not cheap. The city has six hotels with a total of 355 rooms, where the average rate is $314 a night, according to a city staff presentation. A recent survey showed about 280 short-term rentals in the city, with an average nightly rate of $331.

And the demand is high. With the San Diego County Fair and the Del Mar Thoroughbred Club races, the city sees about 4 million visitors annually.

Del Mar has the county's smallest population, about 4,200 residents, but it also has the highest property values. The average home in Del Mar is worth more than $2 million, and many residents use the short-term rentals to supplement their income.

Any limits on rentals will hurt residents, said Kimberly Jackson, who runs a small vacation rental business specializing in North County coastal homes.

"It's devastating for people who rely on this type of income," she said. "Before this ordinance, the general public could vacation rent up to 365 days a year."

The city's proposal was in effect a "ban" on short-term rentals, she said, and the commission's proposed modifications were not much better.

"This is not a win for us," Jackson said of the commission's recommendation. "This is a violation of property rights."

Del Mar has six months to decide whether to accept the commission's recommendation, and the council could take up the issue again as early as July. To become effective, the ordinance must be certified by the Coastal Commission and included in the city's Local Coastal Program, a general guideline for development in the city.

Del Mar has been working for years to strike a balance between the rights of residents who want short-term rentals and those who don't.

In 2016, the city placed a moratorium on any new short-term rentals in residential zones until a new ordinance is approved.

Unlimited short-term rentals area allowed in the city's commercial zones, which is a small area downtown with few homes.

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EVENTS

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Oct. 25, 2019

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NEWS > LOCAL NEWS

Coastal Commission rejects Laguna Beach ban on short-term rentals in residential areas



Laguna Beach's Main Beach from Heisler Park in Laguna Beach. (Photo by Leonard Ortiz, Orange County Register/SCNG)

By ERIKA I. RITCHIE | eritchie@scng.com | Orange County Register
PUBLISHED: December 15, 2017 at 12:19 pm | UPDATED: December 15, 2017 at 1:37 pm

11 COMMENTS

DANA POINT — The California Coastal Commission rejected Laguna Beach's ban on short-term rentals in residential neighborhoods — arguing that it blocks access to public beaches and parks and closes most of the city to the rentals.

Commissioner Steve Padilla called it "discriminatory" during the meeting Thursday. Dec.14 at the Ocean Institute in Dana Point.

"This is a loss, this is a net loss and there is nothing in the record that suggests anything other than that," Padilla said. "It's discriminatory, economically. There is absolutely no doubt about that."

Commissioners voted 9-2 to uphold the staff recommendation to deny the city's request to include the ban, approved by the Laguna Beach council in September 2016, into the city's local coastal plan. The city's ordinance halted new permits for short-term rentals from being issued in the city's residential areas, which constitute 90 percent of the city, but expanded permits in the commercial and industrial areas.

City Manager John Pietig said Thursday the current ordinance remains in effect for now.

The issue must go back to the City Council, which can come up with a new ordinance and take it back to the commission within a year, he said.

"One option is that the city can continue to apply it and not accept the revised version," Pietig said. "The city will be reviewing all options."

The board's vote followed a presentation from city officials who testified that the ordinance followed 11 public meetings over more than a year.

Pietig told commissioners that the ordinance was an effort to preserve the community's character and that the city already accommodates more than 6 million visitors a year, has more than 1,300 hotel rooms and offers free trolley service that provides access to beaches and parks from commercial and industrial areas where the city permits short-term rentals.

"This is an important issue for our city, we've given it a lot of consideration," he said.

Coastal Commission Executive Director Jack Ainsworth said his staff was sympathetic to Laguna's community character, but felt the recommendation to ban an entire vacation area was "overreaching."

He said the city was unfortunately not willing to negotiate because the City Council had taken a position.

"There are alternatives we can explore, but given the circumstances we're stuck, " he said. " A more refined amendment would be more appropriate in this case."

The city's ban left 8,900 properties closed to short-term rentals, according to a report by commission staff. The city has 780 residential units available in the commercial and industrial zones, the report said.

Commissioners expressed concerns the city's ban violates the state Coastal Act, which guarantees access to public beaches and parks.

Padilla said he has had positive experiences with short-term rental vacations.

"I've owned property and rented property and, in my experience, I would have gladly traded some of my neighbors who were owners because it is not just short-term renters who can be a pain in the butt," he said.

The room was filled with supporters and opponents of the city's plan, some holding signs. Many Laguna Beach residents echoed Pietig's comments.

But other residents, including Jennifer Zeiter, supported the commission's vote.

"Thank you Coastal Commission for seeing through the lies and false presentation the city has made," Zeiter said. "The majority of the City Council and the city manager don't want to share this jewel. They want the riff-raff out and the wealthy in. You can't compare a home with multiple bedrooms, kitchen and yard to a sterile hotel room."

After the vote, resident Judie Mancuso said she and others were shocked by what they called the "onerous overreaching of the commission."

"After 11 hearings, the ordinance had been fully vetted and the community had its input," Mancuso said. "And Commissioner Padilla who has rentals, spun the facts and created a boundary by saying the ordinance was discriminatory.

"That painted a line the others did not want to cross," she said. "With six million visitors coming annually and the great length Laguna has gone to with free parking and free trolleys, his statement was absolutely absurd."

Tags: Top Stories OCR



Erika I. Ritchie

Reporter. // MORE INFORMATION: Associate Mug Shot taken August 26, 2010 : by KATE LUCAS, THE ORANGE COUNTY REGISTER

Erika Ritchie reports on South Orange County coastal communities, military issues and Camp Pendleton for the OC Register. She explores everything from coastal access, environmental issues and marine life to city government, animal welfare and quality of life. She's won many awards including first place in news (2016) by the Orange County Press Club for her coverage of record numbers of whale entanglements off the California coast. Erika's covered military change of command and seen military affairs firsthand from the sea aboard a battleship, air from a MV-22 Osprey, and land including Pendleton's International war games and San Clemente Island's ordnance ranges. Journalism allows Erika's penchant for telling human stories of conflict, struggle and joy. Her monthly Everyday Hero feature does just that, highlighting achievements of some of Orange County's most dedicated volunteers and non-profit leaders. Since joining the Register in 2001, she's at times covered every city in South Orange County delving into development, housing, transportation, county government and social issues. She's often written about Saddleback Church and Pastor Rick Warren's emerging national and global roles. Erika's passionate about animals and outdoor adventure. She runs, stand-up paddles and skis - both alpine and x-country. She frequents Mammoth Lakes and Mountain for hiking, biking & skiing and for her dogs to frolic in the snow and lakes. She grew up bilingual in German and conversational in French.

VIEW COMMENTS

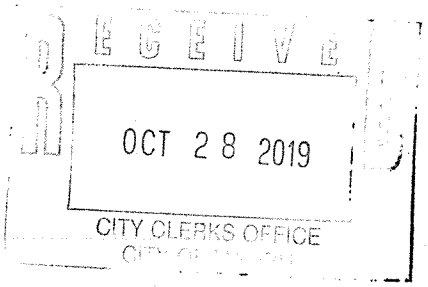
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If you see comments that you find offensive, please use the "Flag as Inappropriate" feature by hovering over the right side of the post, and pulling down on the arrow that appears. Or, contact our editors by emailing moderator@scng.com.

Kelsey Pettijohn

Subject: Commentary for todays City Council Meeting regarding STR - Monday, Oct. 28th
Attachments: CityCouncil_10.28_AirbnbReviews.pdf



From: Lisa Corona <lcorona@ccccgrowthfund.com>
Sent: Monday, October 28, 2019 1:29 PM
To: cityclerk <cityclerk@malibucity.org>
Subject: Commentary for todays City Council Meeting regarding STR - Monday, Oct. 28th

Dear Mayor Farrer, Mayor Pro Tem Pierson and Council Members,

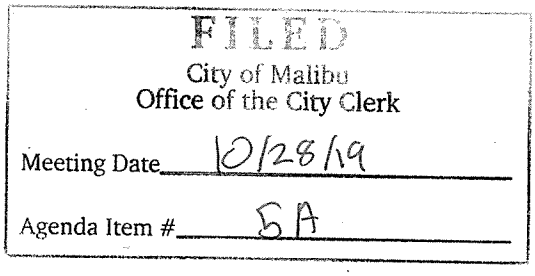
My name is Lisa Corona and I'm writing you in my capacity as an Airbnb host of a property in the Big Rock area. Due to unforeseen circumstances I am unable to attend this afternoons meeting regarding Short-Term Rentals (STRs), however, I'd like to submit the following as my public comments on the issues being discussed today.

The property I manage is an oceanfront home and its seen visitors from across the country, including international travelers from London, Germany, Italy, Austria to name a few. Nearly every booking is celebratory in nature and a bucket list item guests can't wait to check off. I've included some of their reviews (attached) and you can read how truly memorable it is to stay in this great city. Their reviews embody how special it is to stay in Malibu – even for just a short time. My hope is that the beauty of this city and everything it has to offer can continue to be shared with others on a short term basis.

I'm not opposed to well thought out regulations, but please don't penalize those of us on Airbnb who have worked hard to maintain a good standing with neighbors and the city of Malibu.

Thank you for your time.

Lisa Corona
CCCC Growth Fund, LLC.
899 El Centro St., Suite 101 | South Pasadena, CA 91030
OFFICE: 626-441-8772 |
lcorona@ccccgrowthfund.com



CC: Council; CM; CA; PL; Ref. Binder; original to 10/28/19 Agenda File

ENTIRE_HOME · 3 BEDS

MALIBU BEACH HAUS

29 · Superhost

29 reviews

September 2019

You will love staying at the Malibu Haus. It was super clean, lovingly decorated, and in a spectacular location looking out over the water to the horizon. Close to restaurants and shopping. Not a far drive to some of the best beaches in SoCal. Lisa was prompt in answering a few questions we had. We had a great stay.



Judith, Chesterfield, MO
Joined in 2016 ·

September 2019

This place is nothing short of spectacular. We came to celebrate my mother's 70th birthday who met me there all the way from Australia... her response as she walked in says it all. She wept! The views are to die for, the house is immaculate, well equipped and worth every penny. Lisa, our host, was outstanding. She is the most responsive and thoughtful host I've ever had on Airbnb and I wish all hosts were like her. Something that people had mentioned that I just thought would be a pipe dream also came true... dolphins and seals in eye view every day. Such a treat for someone from London! Lisa, thank you again for your hospitality. We'll be back!



Sally-Anne, London, United Kingdom
Joined in 2014 ·

September 2019

We spent a fantastic holiday here, in the beautiful Malibu Beach House. The location is phenomenal, the view breathtaking (and yes, including dolphins and seals). The interior decoration absolutely met our taste, everything was very clean, nothing was missing. We really loved to live here. We can recommend this fantastic place to 100 percent and would like to come back again.



Victor, Munich, Germany
Joined in 2019 ·

August 2019

Great host - excellent service- wonderful location



Luisa, Turin, Italy
Joined in 2015 ·

August 2019

Amazing location on the Malibu coast and close to everything. Beautiful views and a very clean hot tub looking at the waves. Does not get any better than this!!



Jim, San Francisco, CA
Joined in 2013 ·

August 2019

The property exceeded our expectations. Initially I had some reservation concerning the price, but on getting there I was overwhelmed. The house is spacious, tastfully decorated and well situated. Perfect views from all floors. In the basement was also a whirlpool. Me and my family spent some great time relaxing ourselves. Enjoying the soundsystem and the fireplace added a touch of finesse. What I most enjoyed were the nights with the doors wide open, covering myself up and listening to the waves crashing on the boulderstones beneath the house. If you are lucky like I was, you could watch dolphins from your bed in the morning. I would book it again even though I find the price on the high side. It was worth it.



Karin, Vienna, Austria
Joined in 2017 ·

August 2019

Lisa's place is wonderful. Yes it's costly but you cannot beat the location and the house is really wonderful. She was super responsive to our inquiries too. A great stay.



Jean-Jacqu, Phoenix, AZ
Joined in 2015 ·

July 2019

If you choose to stay at Lisa's house you will not be disappointed, it is beautiful!!! We spent our last three days here in California after travelling around staying in various hotels. The beach house is so homely and inviting, Lisa has thought of everything you would need for a relaxing stress free stay. The beds are extremely comfortable, the decor is gorgeous and everything is spotlessly clean. The below deck was a hit with our teenage son's, a large tv and a hot tub with spectacular views to the mesmerising ocean. We only wish we could of stayed longer. Thank you again Lisa xx.



Claire, Little Braxted, United Kingdom
Joined in 2016 ·

July 2019

How can I explain this property? 1) Beautiful 2) Decorated wonderfully 3) Every amenity needed 4) Easy check in 5) The sound system is awesome. 6) The views are thee best 7) wonderful hot tub The only problems is traffic. You have to be quick on finding the address or you will get run over! Cell signals are tough. (The back bedroom you can call out)Also the deck is so slippery when it's wet. I would put a towel or rug down. The waves are so loud (but I loved it.)If you watch the tide you can go to the private beach on the far right side and it's absolutely breathtaking. We saw " Goldie" the golden retriever she was so sweet. I have always wanted to do this on my bucket list and it did not disappoint. Yes. It's pricey but there is reason for that. It's a wonderful place. We felt like celebrities! All my Best Penny



Penny, Pismo Beach, CA
Joined in 2017 ·

July 2019

Great house in a great location. Lisa was excellent, making everything easy and communicated quickly. Description on line is very accurate. Would recommend highly



Paul, Ballymartin, United Kingdom
Joined in 2019 ·

July 2019

The Malibu Beach Haus was just beyond amazing. Fantastic views of the ocean, practically in the water. Lisa provided wonderful little touches to make you feel like this was your extravagant home away from home. She was so quick to respond with any questions we might've had and also checked on us during a few earthquakes that we had experienced. To be honest we didn't even feel them because we were

enjoying ourselves so much. I highly recommend spending the money to stay here. It was completely worth it and my family thoroughly enjoyed it. One of the neighbors were very sweet with their dog Goldie. Can't wait to visit again, hopefully sooner than later.



Desiree, Los Angeles, CA
Joined in 2015 ·

July 2019

This beach house is incredible. It is certainly the best one in the area. It is as clean as can be and everything is taken care of for you. There are many special touches and it is right on the water!! We saw porpoises every day. The Sandy Beach just a few steps down the street was a nice touch too. And the hot tub was delightful. This is the perfect spot for 4 - 6 adults or a family of that size. It is simply a magical location with the waves crashing against the rocks right below. There are 3 levels, the bottom floor is outdoors right there with the ocean spray and the other two are indoors with balconies so you can view the water from anywhere. I highly recommend this lovely vacation spot. Lisa is very responsive if you need anything. Check in and check out were a breeze. If you are thinking about this location, reserve it now. You won't be disappointed.



Katherine, Lenexa, KS
Joined in 2018 ·

June 2019

Pictures don't do this place justice. Lisa's home is nothing short of amazing, and Lisa is an outstanding host who goes out of her way to make your stay the most enjoyable. Book a stay with Lisa with confidence! You won't be disappointed.



Eddie, Petaluma, CA
Joined in 2017 ·

June 2019

Lisa is an amazing host and the house is a great opportunity to spend awesome time in Malibu!



Benamar, Paris, France
Joined in 2019 ·

June 2019

A beautiful home and location. Great host and easy the house was easy to find. The views of the ocean were world class! The house was modern, clean and quite comfortable

Larry, Wake Forest, NC

Joined in 2017 ·

Larry

June 2019

Lisa made this home so dreamy! The house is immaculate. We had an architect and interior designer during our stay, and even the two of them could not get over the attention to detail and incredible design. The pictures do not do this home justice, which is hard to believe! In person, it is so much better than we could have ever expected! Lisa is one of the most responsive and accommodating hosts I have ever had the pleasure of working with. I am amazed by her attention to detail. Her check-in process is self check-in and convenient. She has welcome packets on all three levels with all the information you could ever need, ear plugs next to the bed (which we didn't need to use because the sound of the waves were soothing) plethora of pillows/blankets/towels, fully stocked bathrooms, welcome water bottles and so much more. The kitchen has everything you could need if you were to cook. It's also a plus when the neighbors are welcoming and kind - we met three different neighbors, and had amazing conversations with them all. We even had a special golden retriever visitor from next door come say hi Lisa's deck is the nicest on the block!!! It was so warm and cozy - we couldn't get enough of the fire pit, hot tub and amazing views (we saw dolphins every morning and night). Her house has a sound system through each level that you're able to connect to through an app on your phone. There is a TV on the deck, plenty of places to lounge, a day bed in front of the hot tub to soak in the ocean views, bar stools...I'm telling you this house has it all. It is worth every penny and I promise you, YOU WILL NOT REGRET IT!



Brittany, Newport Beach, CA
Joined in 2019 ·

May 2019

This house is the best house in Malibu, everything about it is perfection. We are counting the days till we come back. This house is A+ We really had the best time.



Lauren, Los Angeles, CA
Joined in 2015 ·

May 2019

This house was absolutely AH-MAZ-ING and was the best of all 3 of the homes that my best friend and I rented during our 7-day "California Beaches" college graduation trip for our 22-year old daughters (also best friends since birth!!)!! It was even more gorgeous and breath-taking than in the pictures and we were all so blown away by the decor, the attention to detail as well as all the little touches everywhere that made it feel like "home." Lisa had plenty of everything we could've asked for including full-size shampoo, conditioner and body wash in each of the two full baths as well as plenty of plush towels. She even had a large covered plastic bin of beach towels waiting by the hot tub for us!! The beds were super comfortable with high quality pillows, linens, blankets and throws. The location could not have been better... right off of PCH, within walking distance of Moonshadows and so "oceanfront" that earplugs were provided next to the bed in the Master bedroom (although we didn't need them as it was too cold to

keep the doors to the balcony open). The views of the ocean are spectacular from each of the three floors and we almost couldn't drag ourselves away from watching the dolphins, the sunsets or the moon shining over the water!! The only negative for us was that we were only there for two nights!! We shopped at Malibu Country, had dinner at both Malibu Farms and Nobu (where we sat next to Seal all evening and saw Pierce Brosnan and his wife on our way out!) and we thoroughly enjoyed a beautiful 3.9 mile hike up to the waterfall and back in Solstice Canyon. We will be back and will stay longer next time!! Thank you, Lisa!!



Jennifer, Friendswood, TX
Joined in 2015 ·

Kelsey Pettijohn

Subject: SHORT TERM RENTALS

RECEIVED
Oct 21 2019
CITY CLERKS OFFICE
CITY OF MALIBU

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

From: Lynn Maccuish
Date: October 21, 2019 at 3:53:23 PM PDT
To: Skylar Peak <speak@malibucity.org>
Subject: SHORT TERM RENTALS

Dear Councilman Peak,

RE: **short term rentals**

I am not opposed to short term rentals. However, there MUST be limitations.

Unlimited use of homes in residential neighborhoods for commercial purposes is destroying the sense of community that is so important to all of us who love Malibu. It is also undermining the value of properties that are family homes, such as my own.

As an example, let me tell you about my neighborhood. The next door neighbor to my West, at 3341 Rambla Pacifico, is renting out both his home and an apartment above his garage. The home accommodates 8 people (according to the Airbnb website) and the apartment 2 people. The next door neighbor to my South, at 3345 Rambla Pacifico, is renting out an apartment in his home as a short term rental, too. This means that every 3 or 4 days new groups of people are coming and going from the homes surrounding mine.

I hope that Malibu doesn't decide to balance its budget on the backs of the people who live in our residential neighborhoods and who are the heart of our wonderful city.

I implore you as an elected representative of our community to implement limitations on short term rentals in Malibu. Santa Monica has done this, Los Angeles has done this, it is time for Malibu to follow their example.

Sincerely,

Lynn M. MacCuish

Malibu, CA 90265

CC: Council; CM; CA ;_____; Ref. Binder; Original to 10/28/19_____ Agenda File

Laurence Stuppy II

RECEIVED
NOV 16 2018
PLANNING DEPT.

November 5, 2018

City Council
C/o Patricia Salazar, Senior Administrative Analyst
psalazar@malibucity.org
23825 Stuart Ranch Road
Malibu, CA 90265

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

RE: Short Term Rental - 33334 Pacific Coast Highway

To the honorable Mayor and City Council Members

My grandparents and their children [including my mother, Mrs. Laurence Stuppy] purchased our first lot in 1948. As a child, I remember visiting the house when they were building it. In 1998, the children and some grandchildren [those then alive] inherited the property at the passing of my mother. It has consistently been a "multi-family" beach house. Over the years, it has been rented both as a short-term and long-term rental, even before and after the City of Malibu was incorporated. Since 2011, we have consistently paid the city thousands of dollars in Transit Occupancy Taxes.

As expressed verbally during the hearings:
We have more than adequate onsite parking for our guests;
We have a local manager available 24 hours;
Our property is part of the Stuppy Family Trust and within this trust;
We have a Limited Liability Company (LLC) for liability protection;
I am the co-manager of the Family Trust and manager of the LLC [a "natural person"];
We are not a commercial enterprise;
We currently have "25 family owners", none of which may live fulltime at the beach house;

cc: council; cm; ca; Ref. Binder; original to 10/28/19 Agenda file

We have a maintenance warranty company to cover almost all needed repairs;
We have not had any complaints;
We have a more than adequate 6,000+ septic system which is pumped periodically; and,
We comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.

We are requesting that we be "grandfathered-in" as a waiver to the short-term ordinance and allowed to rent the property as we have in the past without restrictions to any new ordinance:

The current proposed ordinance would deny long-time multi-family owners the right to rent property from time-to-time to cover maintenance, insurance, taxes, fees, etc. Since 1948, I know of no family member showed as a "resident" of the property. The LLC manager should be allowed to maintain the permit as the "natural person". We request that we be grandfathered-in with a "resident permit" without the "limit on rental periods or restrictions".

We object to the proposed ordinance of the two times bedrooms plus two. Our house has two living rooms and two kitchens in addition to bed rooms. These rooms can be used for sleeping, especially for children. Children and babies are people too and therefore we can exceed your arbitrary limits when children or babies are included. We request that our current accommodations be grandfathered-in as a waiver to the ordinance.

The ordinance is excessively "punitive" and therefore "unreasonable", especially if a situation is out of our control. We request that we be grandfathered-in as a waiver to excessive "citations".

Our property is located on a private road. We request that the requirement to post or inform other residents be waived per the grandfathered-in provision.

Sincerely,



Laurence Stuppy II

Kelsey Pettijohn

Subject: Malibu Road HOA - STR Petition: Regulate Before It's Too Late
Attachments: 9-27-19-Airbnb_Cannot_Comply_letter-to-planning.pdf; 35_Malibu City Council to discuss short term rental ban.pdf; Save The Malibu You Love.pdf; Lustig S Letter.pdf

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

RECEIVED
Oct 24 2019
CITY CLERKS OFFICE
CITY OF MALIBU

From: Michael Lustig
Sent: Thursday, October 24, 2019 3:38 PM
To: Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson; Jefferson Wagner <jwagner@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Skylar Peak <speak@malibucity.org>
Cc: Heather Glaser <hglaser@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Kraig Hill; Steve Uhring; John Mazza; Chris Marx
Subject: Malibu Road HOA - STR Petition: Regulate Before It's Too Late

Esteemed Mayor Farrer and City Council,

Everybody knows what my personal feelings are. The “right" thing to do is ban short-term rentals entirely. But sometimes there is a difference between what’s “right” and what’s “legal.”

Referencing our past conversations, I have said, “It’s not about the nuisances. The nuisances simply represent a structural failure in Cities ability to enforce its existing laws.”

The business models of disruptive technologies like Airbnb depend upon maintaining a “willful denial” of the existing laws. The tech firms would rather abide mantras like, “It’s better to ask for forgiveness than permission” and “Move fast and break things.”

Airbnb is quite excellent at organizing and coaching the good Mom and Pop hosts into acting as foot soldiers in the game control the frame of the public discourse by putting the nuisances first, and with emotive pleas from the victim frame blaming you of persecution by regulation.

The hosts told you, it’s homesharing and they need the money to stay in their homes. I believe most of them. It’s also true that homesharing with the host onsite is a benign practice, but whole unit rentals are not.

Airbnb’s motive co-opts the good hosts to defend the revenue generated from the obfuscated "whole unit rentals" which are also the driver of Airbnb’s business. Whole unit rentals are a zero-sum game. They hurt everyone not participating in STR racket.

I have spent the last 2 1/2 years studying the issue and advocating full time for regulations that work. Last year, I presented to Council, Commission and Staff a study of ordinances from 25 US Cities with a tool for selecting the best provisions for our City.

Staff dismissed the study, just as they dismissed Planning Commissions instructions (May 7, 2018) and Council’s instructions (July 9, 2018) leading to the September 26, 2018 where three council members expressed support for a total ban pending other several reports, and looking at all options. Fair enough.

Understandably, the process was delayed for 13 months due to the Woolsey Fire. But that didn't stop Airbnb's business model, nor the continued destruction of our communities.

I have continued to study and advocate. Since then, I have met with members from council's, commissions, committees and staff in 21 cities. I gave the drafting tool to a compliance software firm, who coded it into an easy drag and drop app that has now been used by 41 additional Cities including New Orleans, which was the hardest hit of any US by STRs. Disaster creates opportunity for speculators and Hurricane Katrina is what preceded the arrival of short-term rentals.

NOLA's first ordinance which was created in partnership with Airbnb, and very much resembles the multi-tier permit system without platform accountability ordinance that was presented to Malibu Council on September 26th.

Airbnb intentionally mislead NOLA into thinking it would be an economic boon for them too. But the ordinance failed miserably which led to a 282% increase in listings that depleted 11%+ of total housing; causing a crisis that Council couldn't solve. A moratorium was passed and furious voters elected a new Council that did not see Airbnb as partners. I would hope that you learn from the mistakes of other Cities.

I was invited by one of the new Councilpersons to give a presentation and allowed generous time to educate her staff on provisions and to explain the results.(attached) NOLA's new ordinance was passed and goes into effect December 1, 2019.

Back in Malibu. On October 3rd, staff returned with the *Raftelis* presentation to the Admin & Finance Committee. The report conflates the losses from the fire, the recent land purchase and includes a warning from "experts" to expect $millions more in unreimbursed expenses from 3-5 years of heavy of rain.

If we're afraid for rain, perhaps we should be building an ark instead?

The report's assumptions and summary recommend legalizing and maximizing the TOT revenue to stem the flow of red ink projected to arrive after the rain 4-5 years from year now.

Let me rephrase, the report recommends the preposterous notion using revenue from an activity that commercializes and destroys neighborhoods by pitting neighbor against neighbor as the sole solution to filling a far off deficit and to protect the City's credit rating.

Once more. The report pushes a horrible public policy that hurts residents to fill a projected future budget gap. This is nothing new. It is not uncommon in the STR debate to see deeply flawed pro-STR reports like this one.

Prior to Monday's hearing, Airbnb has held three conference calls with hosts coaching them how to defend the Raftelis Report (attached).

- The safest place for you to stand is with the residents and HOA's: Please reject it out it right as disingenuously serving special interests. Then let's move on.

We worked very had at Planning and Council to come to a compromise solution, but somehow the City's internal problems repeatedly cause impassable and un-enforceable draft ordinances to magically appear when it's time for a vote, which in turn has caused more delays and inaction.

Over the summer, I was asked to join the board of the Malibu Road Homeowner's Association. Ironic, isn't it? I'm just a renter. Nevertheless, I sat down with president and the board members to discuss how I could be of service.

As it turned out there's a multitude of ways I could add value and I accepted their invitation. One of those items happens to be a shared view on the regulation of short-term rentals.

The board's president Sharon Barovsky, challenged me to simplify the message into a petition and to focus awareness on the convergence of what's "right" and also "legal."

I agreed, but my version of the petition was 15 pages long until October 3rd. Just as the Admin and Finance meeting was wrapping up, news broke that 9th Circuit Court had upheld the Santa Monica ordinance for the third time when the Justices denied a class action suit brought by Airbnb hosts.

Lucky for us, the Court's decision shortened our petition to one page (attached). It will be brought to Council next Monday by the Malibu Road Homeowner's Association in conjunction with and endorsed by several other neighborhood groups and HOA's including the Malibu Township Council.

We are asking City Council to stand with residents by adopting the petition that asks the city to copy the Santa Monica HSO, which is now the gold standard of legally adjudicated ordinances and conform it to our existing municipal code.

The petition also asks you to add some very smart and essential provisions from other Cities that should also be standardized nationally.

Both Planning and Council asked for a review of the Airbnb VTC deal which gives the preference and special treatment to the Airbnb. It also hinders enforcement. The current best practice is to negate the tax deal which give preference to Airbnb by treating all platforms equally.

- Require all Platforms, their subsidiaries and owned or operated websites to collect and remit TOT and to report transactions in a form specified by the City.

Also to be added are these common sense provisions:

- Boston recently won a settlement in a lawsuit filed by Airbnb to block implementation of their ordinance. Airbnb agreed to a provision that requires Platforms take down any listing within 7 days of written notification by the City.

In addition this is also common sense:

- Prohibit all events, parties, and commercial use during guest use of the short-term rental. No special event permit or film permit shall be obtained for an event occurring at dwelling unit during any period of guest occupancy.

Mitigating a problem before you create another one:

Limiting to primary residences is one of the provisions Council agreed previously, but empirical evidence from NY, Austin, Denver, Paris and many other cities tells us that limiting to primary residence without requiring the host to be onsite is not a regulation at all. It is the number one loophole that causes ordinances to fail.

Airbnb just proved this point in Los Angeles in a letter to the LA Planning Commission stating that the requirement for them to build software to help enforce primary residence is "excessively burdensome" and that they cannot (will not) comply (attached)

You're also going to be challenged by hosts on that point. Don't fall for it. Hosts are going to tell you that it won't allow them to share their home when they go away for a couple weeks.

- The innovative solution is NOLA's requirement of dual owner / operator permits. This allows an owner to designate a 3rd party to be onsite when the owner can't. Operators may only have one permit.

Requiring an operator to be onsite cures the nuisances and stops the party houses once and for all. It also stops the consolidation of properties by outside investors and professional STR management companies.

As a generous concession to the CA Coastal Commission and multifamily owners, the petition creates a 20% cap for larger multifamily buildings and allows (1) unit per building of up to 5 units and requires a designated operator to be onsite.

And lastly, we cannot even begin to address enforcement without creating a budget for two dedicated STR compliance officers who will be trained in the latest best practices to uphold the law. And that's what this has always been about. Upholding the rule of law.

The Residents are here to stand with you, while you stand and deliver what's right and legal with our interests in the primary position ahead of special interests and the interests of some individuals.

Very best regards,

Michael Lustig
Let's Regulate
Malibu Road Homeowners Association

September 27, 2019

Vince Bertoni
General Manager
Los Angeles Department of City Planning
200 N. Spring St, 5th Floor
Los Angeles, CA 90012

Dear Mr. Bertoni,

We are writing with regard to our discussions on Friday, September 13 and again on Tuesday September 24 with Planning and City Attorney staff about the draft Platform Agreement. Despite numerous conversations regarding the API compliance system and the timeline it would take to finalize a Platform Agreement and build the system, we were previously led to believe that the Enforcement Date of the HSO would be delayed to accommodate the development of the system and we were surprised and concerned that it was expressed to us that we would be expected to comply using one compliance method beginning November 1 while building the API system. We can not comply with the November 1 deadline because of the late date we received the draft Platform Agreement from the City and the time it will take both the City's contractor (Host Compliance) and Airbnb to build out the system. Doing this by November 1 is simply not feasible, and we hope the City will reconsider this position so we can work collaboratively toward an API system.

Background
On April 2, 2019, in a meeting with Planning and City Attorney staff, it was indicated to us that the City was interested in negotiating a Platform Agreement which would spell out the terms of compliance with the City's Home Sharing Ordinance (HSO). Much of the discussion in the meeting focused on the terms of compliance we agreed to with other cities such as San Francisco. Given the interest of staff in the compliance terms with other jurisdictions, we prepared a draft Platform Agreement that was similar in terms to those agreements. We submitted a draft Platform Agreement to the city on April 26, 2019. Despite repeated requests, we never received a response to the Platform Agreement we submitted.

Subsequently, the Planning Department presented to PLUM and the City Council the Administrative Guidelines and Appendix A which outline the methods platforms can use to comply with the HSO, including the API system. It was indicated to us about this time that a Platform Agreement would only be available to platforms that agreed to use the

API system. However, in the staff report to the City Council, the Administrative Guidelines did not include a platform agreement to consider.

We expressed clearly to staff that it was impossible to evaluate whether we could do the API system, particularly given that this would be a bespoke system that we had never built with another city, absent a draft Platform Agreement to review. At the same time, it was made very clear to us by Planning staff and the City's contractor Host Compliance that the API system was the City's preferred enforcement mechanism. The Planning Department also deferred the Enforcement Date of the HSO from July 1 to November 1 given that the registration system was itself not launched until July 1.

We did not receive a draft Platform Agreement from the City until August 21, 2019, a mere 10 weeks before the new enforcement date of the HSO. We indicated on numerous occasions to Planning staff that it would be impossible to finalize a final Platform Agreement and build the API system preferred by the City by the November 1st deadline. While we have begun the process of negotiating a platform agreement with the City (we provided detailed redlines to the draft agreement to Planning staff on September 24), Host Compliance has indicated that it would take 90 days to build its portion of the system, and that does not include the time it will take for us to build our portion of the system, most of which we can not start until the City's contractor has completed substantial portions of its system. We indicated that if the City wanted us to build the API system we would have to move the November 1 deadline back which the Planning staff indicated a willingness to do.

However, in a meeting with Planning and City Attorney staff on September 13, 2019 to have an initial discussion on the draft Platform Agreement we were told that while we are building the API system we would be required to comply with the HSO using the other methods of compliance. This was the first time we had ever heard this requirement, and in fact is was directly contradictory to all previous discussions with staff. Being forced to concurrently build two different compliance systems to comply with one set of laws is an excessive burden on our business, particularly given the fact that the risk of delay in discussing these important issues was raised to but not addressed by city staff. Moreover, in reviewing the draft Appendix A (attached) which has been provided to the City Council for its adoption, it simply allows a platform to choose its compliance method, and nowhere does it say that if we choose the API system that we need to implement a separate compliance system while the city builds the system we chose. Complying by other means will in itself require substantial time to prepare and eliminates any incentive for us to develop the City's preferred API system of compliance.

The City could have avoided this situation completely if it had promptly entered into negotiations upon receiving our draft Platform Agreement in April, or provided a draft Platform Agreement along with its Administrative Guidelines when presented to the City Council in late June.

Finally, the ordinance is clear that platforms must collect transient occupancy taxes in order to enter into a platform agreement with the city. Our voluntary collection agreement to remit transient occupancy taxes on behalf of our hosts is set to expire on October 31st. This agreement will lapse in the absence of a Platform Agreement.

Implementation of the Home Sharing Ordinance

It has also become evident that City is not adequately prepared to inform hosts about their obligations and how to properly comply with the Home Sharing Ordinance. While more than a thousand hosts have applied since July 1, and though the City has issued temporary permits, no hosts have received a permanent Home Sharing Registration Certificate to date. Important decisions impacting hosts in properties covered by the Rent Stabilization Ordinance have yet to be decided, and despite Airbnb's efforts, there remains a generally low level of awareness of the ordinance's requirements - largely due to a delay in the release of the administrative guidelines leading up to July 1.

Perhaps the most immediately concerning is the lack of any information for how hosts can obtain an Extended Home Sharing permit that enables primary residence hosts to book guests beyond the 120 day limit set forth in the Home Sharing Ordinance. We have passed the 60-day timeline when a host could be eligible to apply for the permit, and are approximately 1 month away from the earliest date that hosts could exceed the 120-day cap and, as of today, the City has not released any information to the public for how to comply, putting at risk a critical income stream for thousands of Angelenos as we head into the busy holiday travel season. We were told by Planning staff this past Tuesday that the system would not be ready for another month.

Furthermore, early conversations with Department of Planning staff describe an application process developed with professional technical employees seeking land use entitlements in mind, rather than a user-friendly system designed for the average homeowner or tenant. Specifically, *administrative* approval (1 citation or less in the 3 years prior) of the Extended Home Sharing Registration provisions outlined in the ordinance and administrative guidelines directs hosts to notify adjacent and abutting neighbors but *requires* hosts to use the Department's mailing vendor Better Technology Company (BTC). Early descriptions of this notification process requires hosts to utilize technical skills that even average professional working Angelenos will struggle through - and we are particularly concerned about the thousands of other less tech-savvy hosts

across the city who will never make it through such a system. Airbnb has designed its own systems for users with minimal tech aptitudes in mind, but our feedback to the City has only lead to more questions and uncertainty. This seems to be in direct conflict with the City Council's clear intent to create a simplified and streamlined approval process for the administrative approval of Extended Home Sharing.

Summary

Again, it is our desire to work collaboratively with the City toward the development of an API system. However, this is only feasible if the City reconsiders the November 1 Enforcement Date of the HSO to a time that will allow the development of an effective API system and the adequate time and outreach required to lead to high compliance and enforceability.

Sincerely,



John Choi

CC: The Honorable Eric Garcetti, Mayor of Los Angeles
Councilmember Marqueece Harris-Dawson, Chair, PLUM Committee
Arthi Varma, Deputy Director, Department of City Planning

From: **Michael Lustig** Michael@LetsRegulate.com
Subject: Fwd: Malibu City Council to discuss short term rental ban
Date: October 18, 2019 at 4:02 PM
To:

ML

Begin forwarded message:

From: Kevin Brunke <kevin.brunke@airbnb.com>
Date: October 14, 2019 at 8:10:58 AM PDT
To: xxxxxxxxxxxxx
Subject: Malibu City Council to discuss short term rental ban

Hi XXXX,

On Monday, October 28, the Malibu City Council is expected to receive a report back from city staff about potential options and procedures for banning short term rentals in the city and the financial implications of such a ban. In a financial analysis commissioned by Malibu, a partial or full ban is projected to:

- Cause the city to lose up to $28.5 million of TOT revenue by 2030
- Eliminate Malibu's reserve fund, which it depends on for a healthy credit rating, within five years
- Hurt Malibu's recovery efforts from the Woolsey Fire

In advance of the council meeting, it's critical that hosts organize, mobilize and advocate against a short term rental ban in Malibu, which would have a devastating impact on the city's residents, its finances and recovery from last year's Woolsey Fire.

To help prepare for this crucial hearing, we have organized a series of conference calls to prepare hosts. Each call will cover the same agenda, and we've selected dates and times that we hope will accommodate your schedule.

Can you take a moment to RSVP to one of the conference calls below?

Thursday, October 17 @ 3pm (RSVP HERE)

Monday, October 21 @ 6pm (RSVP HERE)

Wednesday, October 23 @ 9am (RSVP HERE)

Thank you for your advocacy on behalf of short term rentals in Malibu,

Kevin

airbnb

Kevin Brunke
Community Mobilization

555 W. 5th St, FL 35
Los Angeles, CA 90013
(424) 251-5028

Unsubscribe

From: **Saving Malibu** SavingMalibu@gmail.com
Subject: Save The Malibu You Love!
Date: October 22, 2019 at 12:38 PM
To: migmacmonk@mac.com

SM

SAVING MALIBU TOGETHER!



TO PROTECT MALIBU - PLEASE ATTEND!

THE MALIBU CITY COUNCIL MEETING ON MONDAY, OCTOBER 28
AT CITY HALL, 23825 STUART RANCH ROAD AT 4:00 P.M.

SHORT TERM RENTALS (STR)

To all Malibu Residents,

The Malibu Township Council, The Malibu Road Association, The Malibu Community Action Network (MCAN), and others have joined forces to set the record straight and oppose continued growth of Short Term Rentals (STR) in Malibu.

On October 28, 2019, the City Council will vote on the future of STRs in our City. At that meeting the Malibu City Manager will rely on a flawed financial study to argue that the only way to offset the expenses from the Woolsey fire is to continue to allow unenforced, unsupervised STRs in Malibu. That would be a disastrous result.

Short Term Rentals are dramatically changing our Malibu neighborhoods. Over the last three years (2016-2018), short term rentals in Malibu have increased by 243%. Let me repeat that, a 243% increase with no sign of slowing down. If Malibu does not get control of STRs, all of our neighborhoods will become Airbnb motels and the Malibu quality of life we all enjoy will be gone.

The Malibu Road Association, The Malibu Township Council and the Malibu Community Action Network have developed a petition that requests that the City Council take steps

to get STRs under control. Among other things, the petition asks the Council to only allow STR in residences where the owner is present. The current practice that allows non-residents to run their second or third homes as fulltime short term rentals would be eliminated. The petition also requires the Council to have full time weekend code enforcement officers in Malibu to deal with STR abuses.

THE TWO THINGS YOU CAN DO TO help us in this effort:

#1. Sign the petition below:
https://www.ipetitions.com/petition/regulate-before-its-too-late-3

#2. ATTEND THE MALIBU CITY COUNCIL MEETING
MONDAY, OCTOBER 28th at 4:00 p.m.
CITY HALL, 23825
Stewart Ranch Road.
Your attendance and comments will ensure that our City Council takes the steps to protect Malibu and your quality of life.

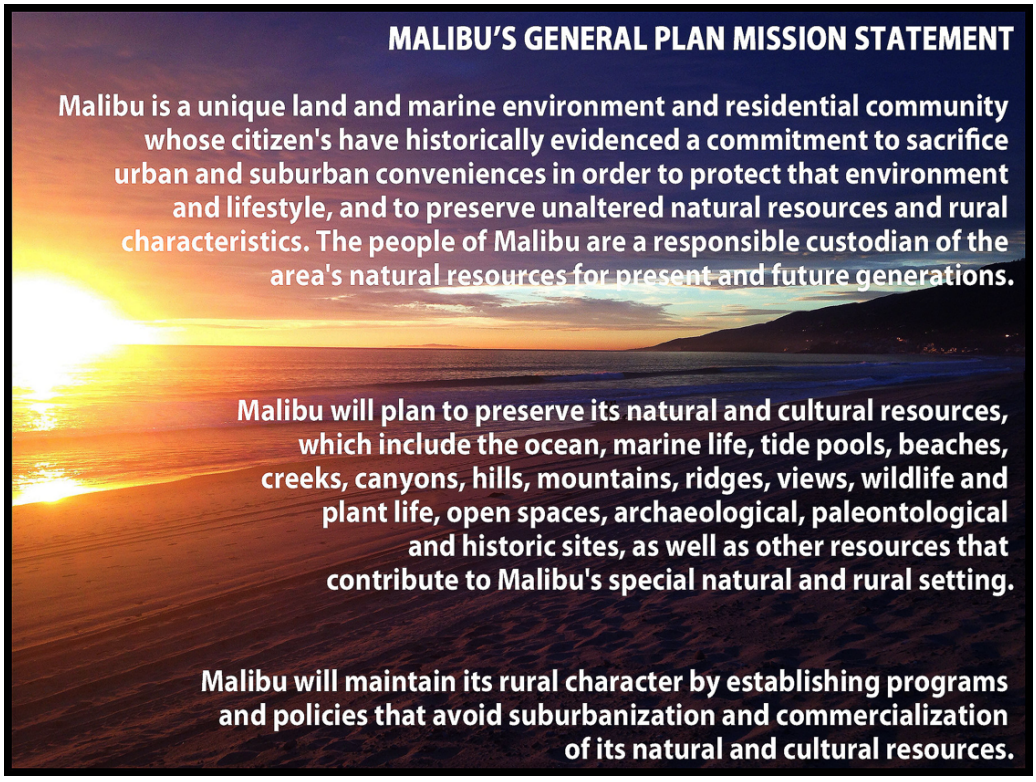
Thank you in advance.
Richard Lawrence, President
The Malibu Township Council

Steve Uhring ,President
Malibu Community Action Network

Michael Lustig, Board Member
Malibu Road Association



TELL MALIBU CITY COUNCIL TO ACT NOW!



Click here for: MALIBU'S GENERAL PLAN MISSION STATEMENT

HELENA MORENO
COUNCILMEMBER AT-LARGE

Office (504) 658-1060
1300 Perdido Street • Suite 2W40
New Orleans, Louisiana 70112

New Orleans City Council

Michael Lustig
25410 Malibu Rd
Malibu, CA 90265

October 23, 2019

Dear Michael,

Over the past year, as you are well aware, the Council of the City of New Orleans undertook a complete overhaul of our short-term rental regulations both within our City's Code via Ordinance Cal. No. 32,691 and within our Comprehensive Zoning Ordinance via Cal. No. 32,685. In August 2018, the New Orleans City Council voted unanimously to enact these two ordinances designed to significantly tighten the city's short-term rental laws. The votes were the culmination of 15 months of work by the City Council and these new rules will go into effect December 1, 2019.

Leveraging your willingness to talk through legislative approaches in other cities and your impressive matrix of short-term rental regulations throughout the world, both my Chief of Staff and Legislative Director studied municipalities' responses both within the United States and abroad extensively. This deep-dive culminated in a heightened appreciation of the challenges created by short-term rentals in other cities and a thorough understanding of the variety of legislative approaches taken to address impacts on communities. Ultimately, our goal is to ensure that a balance exists between encouraging tourism and hospitality growth while also minimizing any impacts on neighborhoods including the displacement of long-term residents.

I am most thankful that my staff was able to benefit from your guidance and knowledge of this subject matter during our internal research phase and throughout our collaboration with other council offices and stakeholders while drafting the above referenced legislative instruments.

Sincerely,

Helena Moreno
City Council President
New Orleans City Council

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

Subject: Let's make it easy. MRA STR Petition

From: Michael Lustig
Date: October 25, 2019 at 6:21:16 PM PDT
To: Karen Farrer, Rick Mullen <rmullen@malibucity.org>, Jefferson Wagner <jwagner@malibucity.org>, Skylar Peak <speak@malibucity.org>, Mikke Pierson
Cc: John Mazza, Steve Uhring, Kraig Hill, Chris Marx
Subject: Let's make it easy. MRA STR Petition

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

Council,

This makes it simple.

This petition is brought to you by the Malibu Road Homeowners Association, Malibu Township Council, Malibu Action Network and several others.

If banning short-term rentals outright isn't legal this is the best of the best from across United States.

Based on empirical facts and common sense, the 9th Circuit Court of Appeals and the PA State Supreme Court. The Boston settlement and learning from the mistakes of others.

Adoption of this petition will set the stage for enforcement.

The two most important things to remember on Monday night:

1. Limiting to primary residence without requiring the host to be on site is not a regulation. It's the number one loophole!
Requiring the host to be on site cures the nuisances, prevents investor units and party houses.

2. Limiting the number of days is unenforceable. Don't even go there.

That is the truth. If your decision doesn't hold these above items at the top of your list. You haven't regulated and it's over. Airbnb owns Malibu.

2015 to 2019 is enough. Let's not go back to square one. Santa Monica got it right on the definition of primary residence, platform liability, health and safety.

Items a-f are the cutting edge of new provisions and are needed to bolster enforcement.

Treat all platforms equally. Negate the Airbnb VTC deal. Requiring all platforms collect, remit and report creates data that will aid enforcement.

Take the lead. This is how you do it right. We are united and standing with you.

It's time for City Council to stand with the residents putting our interests in the primary position ahead of special interests and the interests some individuals.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

Very best,

Michael Lustig
Malibu Rd Homeowners Association
Boardmember.

Petition: Regulate Before It's Too Late
Malibu Short-Term Rental Ordinance

The City of Malibu has been discussing the regulation of Short-Term Rentals for nearly 4 years without taking action. Residents are demanding that City Council act in accordance with Malibu's Mission / Vision Statement and City Council Policy #15 which states: "The general welfare of the City's residents shall always be considered as primary to any special interests of any individual or group of individuals or the interests of any individual elected or appointed City official."

The Malibu Road Homeowners' Association, along with several other neighborhood associations, now ask the City Council to:

1. Pass an ordinance that copies the Santa Monica Homesharing Ordinance. The Santa Monica ordinance prohibits commercialized "whole unit STRs" by limiting short-term rentals to primary residences where the owner or operator (host) is on-site while the guests are in occupancy.

   The Santa Monica Ordinance has been upheld in the Ninth Circuit Court of Appeals in March of 2019. The HSO was upheld again under judicial review in August 2019, and again for a third time October 3, 2019 when the Court of Appeals denied a class action suit by hosts.

2. The Ordinance must include provisions that address the following:

   a. All Short-term Rental Platforms and their subsidiaries must be treated equally. All Platforms are required collect and remit the Transient Occupancy Tax to the City. The failure of a Platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees.
   b. Platforms must take down non-permitted or non-compliant listings within 7 days upon written notification by the City*
   c. Create an STR Registry requiring dual permits for primary residents (single family) and multifamily buildings. One permit for the owner (primary resident) of the dwelling unit and a second permit for an operator. An owner can be the operator or may designate a third party to be the operator. Both owners and designated operators must register directly with the City and attain a valid permit before offering any residence as a Short-Term Rental and are required to include the permit number in all listings. Designated operators are limited to one permit with a sole exception for the operators of large multifamily permits; where the designated operator is responsible for more than one unit.*
   d. In order to satisfy the published guidelines of the California Coastal Commission, short-term rentals will be allowed in multifamily buildings but are limited to (1) unit per building of up to 5 units. Large Multifamily Buildings of (6) or more units are limited to 20% of total units.
   e. Prohibit all events, parties, and commercial use during guest use of the short-term rental. No special event permit or film permit shall be obtained for an event occurring at dwelling unit during any period of guest occupancy.*
   f. Create a budget requiring the City to use revenue from the TOT to cover the costs of two dedicated compliance officers and enforcement of the STR Ordinance.

*Item (b) is from the Boston and items (c) and (e) are from the New Orleans ordinance.

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Oct 28 2019
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FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

Heather Glaser

From: Nancy Schapiro
Sent: Sunday, October 27, 2019 12:40 PM
To: Karen Farrer; Mikke Pierson; Rick Mullen; Skylar Peak; Jefferson Wagner; cityclerk
Subject: STRs

I am writing to ask that you commit to a complete ban of short term rentals in Malibu, even in primary, owner- occupied residences. I have laid out my rationale below.

1) These rentals are an arbitrary contagion and infliction.

We, like many, moved here to live in a quiet, rural community with good schools. Things have gone tipsy-turvy. Neighbors are now innkeepers and event venue owners. We are now subject to the luck of the draw, to who buys where, and for what use. If you are adjacent to these zoning mishaps, you are well-aware. If you are not, you may, at anytime, fully without your say, become a victim, not a survivor of this contagion. You will certainly suffer the consequences.

2) Our zoning precludes short term rentals. Period.

This should be the end of the story. Unfortunately, it is not. Hosts seem to think that they have an entitlement to do with their property as they please, since it is their private property. This simply isn't the case. We have zoning that dictates LEGAL uses of our private property. STRs (a commercial use) are not permitted uses in residential, single family neighborhoods.

3) People CAN rent out their properties, for 30 day minimums

4) Monthly or annual rentals can pay for costs of ownership.

The primary reason STR Hosts cite for legitimizing their illegitimate actions is that they can't afford to stay in Malibu without this income. Nothing precludes them from leasing it out, to people who want to LIVE here, to contribute to our community and populate our schools.

5) Hotel stays with ONE NIGHT MINIMUMS are insanity in a residential neighborhood.

And they are currently allowed. Stays as short as ONE night or events that don't even include a stay - those advertised as "perfect for corporate events" are currently permitted.

6) What kind of hosts are "super hosts"? What makes them "super?"

Airbnb super hosts say they are great hosts, very mindful of their neighbors. They don't allow parties. Simply not allowing parties is a very low bar, hardly synonymous with being a great host. Being a great host doesn't mean that your hosting is legal.

The hosts say their guests love staying with them. I believe this. Pleasure of a guest's stay is not what are at the heart of this issue - zoning illegality and neighborhood destruction are.

The hosts say that they provide an opportunity for their guests in a city with few hotels and unaffordable ones at that. More hotel rooms are coming to Malibu. Agoura, just over Kanan, has hotel rooms for under $160 per night. People pay for location. Cost of hotel rooms is not a reason to allow an illegal land use in a residential neighborhood.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

The hosts say that their guests spend money in Malibu. Full time tenants would certainly spend money as well.

The hosts asked, repeatedly, last October, that council not "throw the baby out with the bath water." What is the baby? That they are "good" hosts?

7) Have any hosts ever ASKED their NEIGHBORS how this arrangement is going?

8) Have any hosts ASKED how they can LESSEN THE IMPACT on their neighbors?

9) The toll on neighbors and neighborhoods can be immense.

The parking spot is the check-in/check-out spot. It is where cars unload, trunks slam, car alarms beep on and off, alerting aggrieved neighbors to every movement of these transient hotel-dwellers next door. The luggage then clacks and rolls across the driveway.

Their private property. That's what hosts argue. They can park people where they choose. One night minimums, allowed 365 days a year, at the host's choosing. That's a lot of check-ins, greetings, trunks and car doors slamming, alarms, luggage-clacking, directions and tips given. That's a lot more noise and disruption than a monthly or annual tenant. This is BANNED, even in LA.

10) Neighbors have no say.

The natural response from all of you will be, well, talk to your neighbor, make them aware. I did. They shut down my plea for a simple parking change that would greatly affect our peaceful enjoyment of our property.

What am I left to do? Watch and listen to the erosion of my daily quality of life.

I did not agree to live next to a hotel, or a corporate event retreat that can sleep 18. I moved to a rural residential neighborhood. That's the zoning. That's the deal.

11) There is no temporary housing to be had in Malibu. I blame STRs.

After the Woolsey Fire and continuing to today, there was nothing to rent monthly in Malibu, just STRs and annual leases. Our choices in June and July, while still dislocated as a result of the Woolsey Fire ,consisted of AIRBNBS in our neighborhood that began at $2000 per night. They were not ocean or bluff-front homes. In no universe could they rent for over $60,000 to $90,000 per month. But, in AIRBNB-land, they can rent for $2000 and up per night. The reality was heart-breaking for us.

12)The City budget cannot be balanced on the backs of neighbors.

The City now relies on STR TOT when calculating its budget. Reliance on something destructive to one's well-being is not an appropriate rationale for continuing an illegal and community-decimating activity.

At the budget meeting last month, one speaker referred to our city's reliance on STR TOT as being akin to a heroin addict's reliance on heroin.

Dependence and reliance cannot be confused with something good. Reliance on heroin can end in the death of that person. Reliance on STR TOTs can end in the death of our City as we know it.

13) Malibu as we know it will voluntarily and knowingly morph into an unrecognizable concept.

As we become surrounded by STRs, we we lose our reason for living here. What happens then? Do all of our homes become STRs? Do we sell to someone who wants to buy our house for its room count and, thus, its profitability? This chain continues, up and down the streets of our community, the drug that is TOT revenue coursing through its veins.

14) A partial ban will result in an enforcement quagmire.

The stark reality is that aggrieved neighbors will be at the mercy of the whims of STR hosts and on the hook to reach for enforcement. We do not want that job. It's a really bad one.

15) ENTITLEMENT cannot supersede zoning, the City Charter or the welfare of our City.

Hosts, when I listen to their comments, present a sense of entitlement, an "it's my property, you can't tell me what to do with it". In reality, nothing can be farther from the truth. You MUST tell them what to do with it.

Respectfully,

Nancy Schapiro

Sent from my iPad

Pacific Coast Management, LLC
Post Office Box 25070
Ventura, California 93002

RECEIVED
Oct 29 2019
CITY CLERKS OFFICE
CITY OF MALIBU

October 28, 2019

Via Email

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

CityClerk@MalibuCity.org
KFarrer@malibucity.org
RMullen@malibucity.org
Mpierson@malibucity.org
Speak@malibucity.org
Jwagner@malibucity.org
Hglaser@malibucity.org

Malibu City Council
Malibu Planning Department

Honorable City Council Members and Planning Department,

We represent several owners of ocean front rental property in Malibu. As local property managers and managers of short-term rentals ("STR's") we are keenly aware of the benefits and difficulties. Professionally owned and operated buildings, units and homes benefit all parties; owners, visitors, neighbors, employees, and city residents alike. Professionally owned and operated is exactly that, professional.

However, a few of the provisions in the proposed ordinance punish professionally owned and operated buildings, units and homes.

Our clients are not opposed to an ordinance that imposes some reasonable conditions. They are strongly opposed to the proposed terms in the current proposed short-term vacation rental ordinance set forth below.

1. Limiting the number of STR units in a multifamily building to two units.

Oceanfront multifamily housing in Malibu is not affordable housing. This is a fact that is undisputable. These units serve a luxury market and the use of these units as vacation rentals in no way impacts affordable housing stock. What is more, the use of ocean front luxury units as vacation rentals is the best use of those oceanfront units as it provides more visitor serving ocean front accommodations, which in turn provides shoreline public access, recreation and lower cost visitor accommodations in accordance with the Coastal Act. To limit the units that can be used for STR in a building to two units is unfair to anyone with three units or more. At least modify the language to say "the greater of two multi family units or 50% of the units in the building".

2. Limiting the number of non-owner occupied properties that can be registered to one person.

3. Limiting the period during which short-term rental is allowed to April 1st to September 30th.

These proposed provisions are discriminatory and punitive to property owners that do not live in their home or building and owners of multiple properties. The proposed ordinance as drafted caters to owners that rent out their personal homes. The Coastal Act does not differentiate between real estate investors and homeowners, nor should Malibu.

Neighbor complaints are a primary issue. Professional owners and managers are experienced and efficient in vetting tenants and promptly and professionally responding to complaints or issues that may arise. This is not the case with individual homeowners that have little or no experience at leasing, vetting, managing complaints and situations.

Limiting the short-term rental period from April 1 to September 30 will severely impact the tax revenue the City and all its residents and businesses enjoy. It will also make managing the units far more difficult, which in turn will result in more complaints and unhappy visitors. To have a smooth operation one needs consistency in management, housekeeping, maintenance, advertising, etc. Disrupting these services every six months creates a management nightmare and a hardship for those providing the necessary services. It isn't reasonable to require an investor owner not to rent their property for six months out of the year. If this six-month limitation is implemented owners simply won't be able to rent their properties as vacation rentals any longer. This is contrary to the intent of the Coastal Act, it negatively impacts the owners, guests and all in the community that benefit from the transient occupancy tax. It's a lose-lose for all, and simply unnecessary.

Eliminating the unnecessary draft provisions set forth above will go a long way in creating an ordinance that is in compliance with the Costal Act, is not discriminatory, and is not a taking of private property rights. It will benefit visitors and community members alike.

Thank You,

Pacific Coast Management, LLC
(805)643-6093

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

To: Members of the City Council
From: Malibu Coalition for Slow Growth by Patt Healy (MCSG)
Re: Agenda item 5A STR
Hearing Date 10-28-19

Honorable Members of the City Council ,

In order to maintain a residential community and our quality of life, MCSG asks that :

1. All STRs be banned.
2. If you are unwilling to do this, MCSG recommends that the Council adopt as a compromise the Santa Monica Home Sharing Ordinance including the recommendations of Michael Lustig.

Michael Lustig should be your guide in this instance since he knows more about STR's than anyone and has come up with a sound middle ground.

Thank you for considering these comments.

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

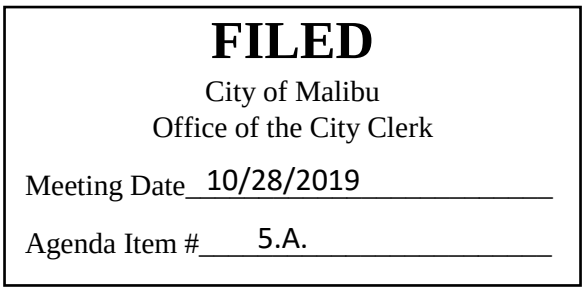
CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

Heather Glaser

From: Pamela Van Ierland <pamela@vacationrentalmalibu.com>
Sent: Friday, October 25, 2019 3:04 PM
To: cityclerk
Subject: short term rentals.



Now more than ever Malibu needs this revenue!!!
Do not punish homeowners who simply need to get by.
Millions of money is at stake here.
Pamela



--
Pamela Van Ierland
Vacation Rental Malibu
Pamela@vacationrentalmalibu.com
310-487-8799
www.vacationrentalmalibu.com

Agent- Coldwell Banker
Malibu West Office
BRE License # 02013069

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Kelsey Pettijohn

Subject: Administrative Penalties + Fines

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Oct 24 2019
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CITY OF MALIBU

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

From: R Y A N
Sent: Thursday, October 24, 2019 1:00 PM
To: Heather Glaser <hglaser@malibucity.org>
Subject: Administrative Penalties + Fines

Mayor Farrer and Members of the Malibu City Council:

The City of Malibu has penalty and fine schedule for various illegal activities -- from smoking on the beach, alcohol on the beach, dogs on the beach, parking tickets, and businesses violating City of Malibu prohibitions of single-use plastic bag distribution, aerated polystyrene container distribution, plastic cutlery and straws. The City may also have adopted stricter penalties for business' sales of tobacco to underage persons. Some of these penalties are $500 per occurrence/day.

2. many violations of City code are also designated as additional, separate offenses of NUISANCE which carry similar penalty per occurrence. A report on the applicability of such additional Nuisance penalty to violations of existing Zoning and Administrative Codes is warranted for public discussion purposes of this October 28, 2019 agenda report addressing potential Municipal and Zoning Code revisions which would permit the business activity of Short Term Rentals (transient occupancy) residentially-zoned land within the City of Malibu.

For the purposes of enforcement of the non-permitted transient occupancy business use on Single Family Residential-Zoned property, several potential violations may simultaneously exist, including, but not limited to:

1. Impermissible use per Zoning and State-Certified Local Coastal Program.
2. Operation of a Business out of the property which creates foot-traffic and/or violates stricter parking or noise abatement requirements, and/or exceeds a limited portion of the primary dwelling's square footage or number of rooms.
3. Failure to Register as a Transient Occupancy provider
4. Failure to remit Transient Occupancy Tax to the City Treasurer
5. Violation of Film Permit for Exterior Building Photos promoting the Transient Occupancy Business
6. Health and Safety violations related to transient public use of sleeping facilities, such as non-existence of window screens on sleeping rooms, non-posting of fire escape routes or fire suppression equipment, fire alarm system certification, pool depth markings in perimeter decking, ADA grab bars in showers and around toilets, and child-safe patio/balcony/staircase railings.

The City needs to amend its codes to add Transient Occupancy Provider in any Zone other than Commercial to require payment of License Fee commensurate with the level of investigation and enforcement for the business use. For strip clubs, dance clubs, massage parlors, etc., where congregation of unpredictable groups of persons are traditionally-known to cause disproportionate impact and/oro demand on City-paid or

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subsidized services, including, but not limited to law enforcement, Paramedic, Fire, Ambulance, Beach Patrol, Street Sweeping, Parks Services and Maintenance, Search and Rescue, etc., the fee is multiple times the price of license issuance administration/registration due to associated activities' impacts to the City's Budget and General Fund.

An analysis of all of the City's Administrative Penalties, and all of the City's Business License Fees for specific business use, is appropriate data for City Council member review prior to the October 28, 2019 City Council Meeting item to consider legitimizing Transient Occupancy Businesses in Residential Zones.

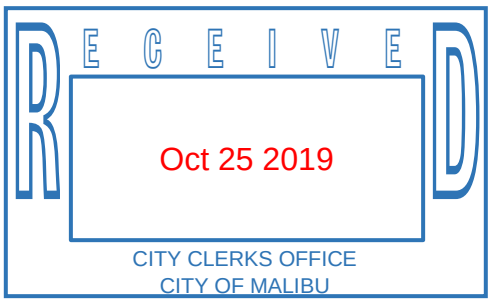
I hereby request these above Administrative Penalty and Business License Fee lists ("menu price lists") be provided to me by return email via the City Clerk as soon as possible as such are currently applicable, extremely relevant, and operative/policy documents of the City of Malibu.

Thank you.

Heather Glaser

From: Richard Johnson
Sent: Friday, October 25, 2019 1:52 PM
To: cityclerk
Subject: short term rentals

We have a short term rental. For the folks that think bad things about short term rentals, we have eliminated weddings and get togethers for over 30 people. Also, we would like them to keep in mind that these short term rentals leave the house vacant 1/2 the year, so there is less impact on the neighborhood that long term rentals. Just Sayin'



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Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

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Kelsey Pettijohn

Subject: CORRECTION: REVISED MEETING TIME 4:00PM - Malibu Short-term Rentals - City Council Meeting October 28, 2019

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

RECEIVED
Oct 21 2019
CITY CLERKS OFFICE
CITY OF MALIBU

From: Richard Lawrence
Sent: Monday, October 21, 2019 1:39 PM
To: Justine Kendall <jkendall@malibucity.org>
Subject: RE: CORRECTION: REVISED MEETING TIME 4:00PM - Malibu Short-term Rentals - City Council Meeting October 28, 2019

JESSICA, A 4 PM START WILL GUARANTEE THAT THE CITIZENS OF MALIBU WILL NOT BE ABLE TO EXPRESS THEIR VIEWS ON THE REVENUE BASED SOLUTION TO BALANCING THE BUDGET. LETS START GOVERNING IN THE BEST INTERESTS OF THE POPULACE. DESTROYING THE SPIRIT OF MALIBU IS A TOTALLY DESTRUCTIVE POLICY. THE BUDGET SHOULD BE APPROPRIATE TO THE REVENUE GENERATED BY THE TAXATION OF THE CITIZENS, NOT A DESTRUCTIVE METHOD OF ACCEPTING REVENUE FROM A PRACTICE THAT NEGATIVELY DESTROYS OUR NEIGHBORHOODS.

Richard Lawrence
President, Malibu Township Council

From: Jessica Thompson <jthompson@malibucity.org>
Sent: Monday, October 21, 2019 8:11 AM
Subject: CORRECTION: REVISED MEETING TIME 4:00PM - Malibu Short-term Rentals - City Council Meeting October 28, 2019

Malibu City Council Public Meeting - October 28, 2019
Malibu Short-Term Rentals

The City of Malibu City Council will consider short-term rentals at its next meeting:

Monday, October 28, 2019
4:00 PM
Malibu City Hall
23825 Stuart Ranch Road, Malibu

As part of the City Council's effort to consider regulating short-term rentals, the City Council will consider short-term rentals, specifically the following topics: 1) the financial analysis on the implications and potential impacts on a ban on short-term rentals; 2) options and procedures for regulating and banning short-term rentals; 3) whether an amendment to the Local Coastal Program is necessary for a short-term rental ban; 4) approaches of other coastal cities and associated litigation in those cities; and 5) provide direction to staff on a short-term rental ordinance.

Click here to view the meeting agenda and staff report (see Item 5A).

If you are unable to attend the meeting, you may watch the meeting LIVE online at www.malibucity.org/videoarchive.

For questions and to submit comments, please contact Justine Kendall, Assistant Planner, at jkendall@malibucity.org or (310) 456-2489, ext. 301.

CC: Council; CM; CA ;_____; Ref. Binder; Original to 10/28/19 Agenda File

For more Information, visit the City's website at https://www.malibucity.org/str

Patricia Salazar | Senior Administrative Analyst | Planning Department
23825 Stuart Ranch Road, Malibu CA, 90265
(310) 456-2489 extension 245

Connect with the City of Malibu!



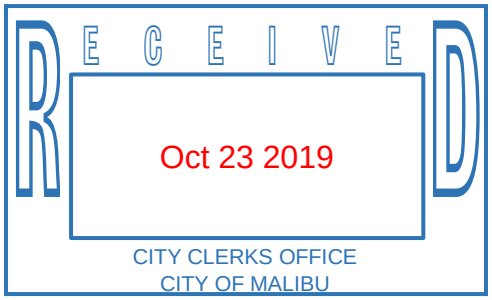
From: Saving Malibu <SavingMalibu@gmail.com>

Subject: Save The Malibu You Love!

Date: October 22, 2019 at 11:40:25 AM PDT

To: <dax@daxdesign.com>

Reply-To: <SavingMalibu@gmail.com>



FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

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SAVING MALIBU TOGETHER!



TO PROTECT MALIBU - PLEASE ATTEND!

THE MALIBU CITY COUNCIL MEETING ON MONDAY, OCTOBER 28 AT CITY HALL, 23825 STUART RANCH ROAD AT 4:40 P.M.

SHORT TERM RENTALS (STR)

To all Malibu Residents,
The Malibu Township Council, The Malibu Road Association, The Malibu Community Action Network (MCAN), and others have joined forces to set the record straight and oppose continued growth of Short Term Rentals (STR) in Malibu.

On October 28, 2019, the City Council will vote on the future of STR in our City. At that meeting the Malibu City Manager will rely on a flawed financial study to argue that the only way to offset the expenses from the Woolsey fire

is to continue to allow unenforced, unsupervised STRs in Malibu. That would be a disastrous result.

Short Term Rentals are dramatically changing our Malibu neighborhoods. Over the last three years (2016-2018), short term rentals in Malibu have increased by 243%. Let me repeat that, a 243% increase with no sign of slowing down. If Malibu does not get control of STRs, all of our neighborhoods will become Airbnb motels and the Malibu quality of life we all enjoy will be gone.

The Malibu Road Association, The Malibu Township Council and the Malibu Community Action Network have developed a petition that requests that the City Council take steps to get STRs under control. Among other things, the petition asks the Council to only allow STR in residences where the owner is present. The current practice that allows non-residents to run their second or third homes as fulltime short term rentals would be eliminated. The petition also requires the Council to have full time weekend code enforcement officers in Malibu to deal with STR abuses.

THE TWO THINGS YOU CAN DO TO help us in this effort:

#1. Sign the petition below:

https://www.ipetitions.com/petition/regulate-before-its-too-late-3

#2. ATTEND THE MALIBU CITY COUNCIL MEETING

MONDAY, OCTOBER 28th at 4:00 p.m.

CITY HALL, 23825

Stewart Ranch Road.

Your attendance and comments will ensure that our City Council takes the steps to protect Malibu and your quality of life.

Thank you in advance.

Richard Lawrence, President

The Malibu Township Council

Steve Uhring ,President
Malibu Community Action Network

Michael Lustig, Board Member
Malibu Road Association





Click here for: MALIBU'S GENERAL PLAN MISSION STATEMENT

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Saving Malibu · PO Box 4185 · Malibu, CA 90264-4185 · USA

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

From: Rochelle
Sent: Friday, October 25, 2019 4:21 PM
To: cityclerk
Subject: Banning of Airbnb

Good day City Counsel. My Airbnb offers a wonderful place for people to come and visit our beautiful city. My guests are polite and nice. They frequent our stores. They dine at Duke's and the breakfast/hamburger joint. They visit the civic center. They spend money at our stores. Getting rid of Airbnb all together is a huge loss for our city and our city businesses. I can understand if the home is rowdy, noisy and a nuisance. But mine is not. And many of them I'm sure are not. The amount of money raised in the transient taxes is good money. Maybe can help with fire prevention!! We are business owners providing a service to people all over the world. And we are enabling them to come spend money in our town. Please don't ban Airbnb. Our guests need a place to come stay. They're aren't many places for people to come and visit our beautiful city. With Airbnb, we allow visitors.
Sent from my iPhone

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Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

Subject: The banning of short term rentals in Malibu city

---------- Forwarded message ---------
From: **rochelle**
Date: Mon, Oct 28, 2019 at 11:15 AM
Subject: The banning of short term rentals in Malibu city
To: <kfarrer@malibucity.org>, <mpierson@malibucity.org>, <rmullen@malibucity.org>, <speak@malibucity.org>, <jwagner@malibucity.org>

Hello Honourable Council members.

We run a successful Airbnb in Malibu. Our guest book is full of fun places to go in Malibu and great places to eat. Our guests spend their hard earn money in our city helping out all the businesses. It would be a shame to loose this extra revenue for our city and for our businesses. With only 4 hotels, it doesn't open up Malibu to many tourists or the world. By having well run, respectable Airbnb sites, we open our beautiful city up to the world. Allowing our city as a whole to spread the wealth it is receiving from the transient taxes. Malibu city can use those taxes to benefit the fire victims. To help pay to rebuild their homes. To try and The amount of money the city receives from our guests by way of the taxes, would be a shame to loose. It's free money to the city! The hosts and hostesses do all the work cleaning and making ready our homes for the guests.

Please vote to keep the short term rentals legal in Malibu. I understand there will be bad apples that make this business seem like a nuisance, however, maybe a part of the transient taxes can be earmarked for a special Sheriff's division to deal with homeowner's who allow disruptive disrespectful people into their home. Maybe a recording keeping tally can be established to keep track of the bad apples and shut them down and allow the host's and hostesses who are running a legitimate, professional business the ability to continue.

Best Regards,

Rochelle, President
Premier Accounting & Finance, Inc.
Mailing Address Only
15243 La Cruz Drive #321
Pacific Palisades, CA 90272
310.433.2826
Best Tax Preparer hands down!!!

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Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

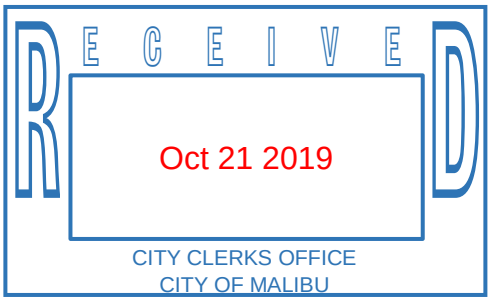
This e-mail transmission and any attachments contain confidential information from Premier Accounting. If you are not the intended recipient, you may not read, copy or use this information. Please notify the sender immediately by reply e-mail and delete this message.

IRS Circular 230 Legend: If any advice concerning U.S. federal tax issues is contained in this communication or attachments, such advice is not intended to be used and cannot be used for the purpose of avoiding penalties under the Internal Revenue Code or promoting, marketing or recommending to another party any transaction or matter addressed herein.

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Kelsey Pettijohn

Subject: Short Term Rentals



From: Rena Patterson
Sent: Saturday, October 19, 2019 6:17 PM
To: Heather Glaser <hglaser@malibucity.org>
Subject: Short Term Rentals

We can't make it to the meeting on the 28th, but would like to voice our concerns about single family homes in Malibu rented out on AirBnB. Mammoth Lakes and Santa Monica, Jackson Hole, Wyoming passed similar laws. To preserve the quiet of single family home neighborhoods, Air BnBs should be outlawed.

We live in Malibu Park, on Deerhead Road. We've seen firsthand the problems with Air BnB. Our next door neighbor lives elsewhere---he rents out his second home. He is never there, so I can't contact him about problems. Last weekend there were 40 people partying very loudly, and I don't blame them. They paid a lot of money. There were 12 cars parked on our cul-de-sac.

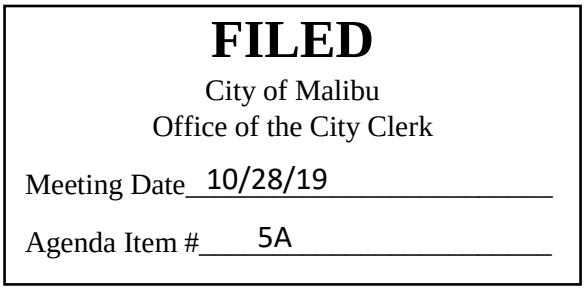
He has had a valet service before. They park the cars on Harvester. This is because he had a wedding, and his guests parked 50 cars along our narrow street, and a fire truck or ambulance could not get to our house. I had to call the Fire Department about it. I have epilepsy, and must have access for an ambulance.

It really does erode the character of the neighborhood. I'd love to see homes rented to families, so our schools are full, and our streets have children playing, not partiers. This is why the ban is in other cities.

Thank you,

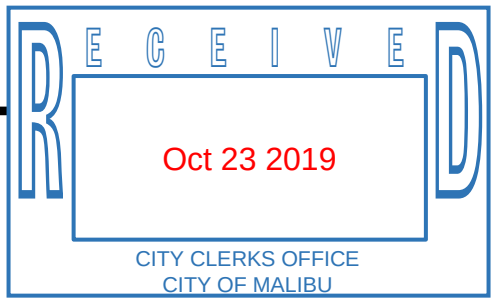
Rowena and Bill Patterson

Malibu, 90265



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Kelsey Pettijohn



Subject: Short Term Rentals

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

From: Rena Patterson
Sent: Wednesday, October 23, 2019 10:54 AM
To: Heather Glaser <hglaser@malibucity.org>
Subject: Re: Short Term Rentals

Thank you, Heather.

I also want to forward a few articles and studies I found that prove that STRs raise rents and ruin neighborhoods. If you Google, "Negative Impacts of STR", there are thousands of articles. Cities are fighting back. So should we.

Today's LA Times had this article about Silver Lake, and how corporations are buying up homes to rent on Air BnB and VRBO. We are in a housing shortage. The residents are outraged.
These are essentially illegal hotels, commercial operations in areas zoned for residential only.

https://www.latimes.com/opinion/story/2019-10-23/airbnb-short-term-rental-silver-lake-los-angeles-regulations

Here are other articles and studies that show STRs negatively impact our housing crisis.

https://www.realtrends.com/blog/economist-warns-airbnb-rentals-impact-housing-crisis/

This is about STR in New York City, but applies to other cities. The bad outweighs the good.

https://www.governing.com/columns/public-money/gov-airbnb-affordable-housing.html

https://airbnbwatch.org/airbnbs-not-sweet-16-broken-neighborhoods/

Sun Valley, Idaho is a town that has become second homes, and is no longer a vibrant community. The schools closed because there were not enough families. We can't have that happen to Malibu, especially with the expensive renovation of Malibu High.

Thank you, Rowena and Bill Patterson
Malibu

On Tue, Oct 22, 2019 at 1:53 PM Heather Glaser <hglaser@malibucity.org> wrote:

> Ms. Patterson:
>
> Your correspondence has been received, distributed to the Council, and included in the public record. Please feel free to email me with any questions.

CC: Council; CM; CA ;_____; Ref. Binder; Original to 10/28/19 Agenda File

Best,

-

Heather Glaser | City Clerk

City of Malibu

(310) 456-2489, extension 228

From: Rena Patterson
Sent: Saturday, October 19, 2019 6:17 PM
To: Heather Glaser <hglaser@malibucity.org>
Subject: Short Term Rentals

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It really does erode the character of the neighborhood. I'd love to see homes rented to families, so our schools are full, and our streets have children playing, not partiers. This is why the ban is in other cities.

Thank you,

Rowena and Bill Patterson

Malibu, 90265

Los Angeles Times

LOG IN

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OPINION

Opinion: Short-term rentals in my Silver Lake neighborhood are causing 'rentrification'



A 2018 protest on the Venice Boardwalk called for increased regulation of short-term rentals. (Christina House / For The Times)

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By CHARLES FLEMING

3 AM

On Nov. 1 new regulations restricting short-term residential property rentals will take effect in Los Angeles. I don't know whether the rules will help end homelessness or slow the process of gentrification, but I believe they will stop the onslaught of what I call "rentrification."

The regulations will limit homeowners to 120 days a year of short-term rentals on their properties, and limit those rentals to property occupied by the owner. Second homes and vacation homes can no longer be offered on Airbnb, VRBO and other sites for short-term rentals.

After witnessing multiple waves of gentrification around my home in Silver Lake, I'm all for the changes. Over the last few years, I've seen increasing numbers of houses purchased by people who don't intend to live in them — or rent them to long-term tenants. Instead, they rent them for a few days or a week or a month to tourists. The tenants don't work here, or vote here, or send their kids to school here. They have no stake in the neighborhood.

I asked broker David Melford of Compass Real Estate whether he's seen a trend toward short-term rentals in the area. He provided title company data showing that in 2015 39% of the 303 properties sold in Silver Lake were not intended as primary residences for their new owners. In 2018, 396 homes were sold, with 60% not intended to be primary residences.

My wife and I bought our first house in 1988 in the then decidedly unfashionable "Baja Silver Lake" area, on a dodgy street where break-ins and hold-ups were common. We moved north of Sunset to a new house on a safer block a few years later.

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We could see the community changing in good ways and bad. The commercial district along Sunset Boulevard was revitalized, with new restaurants and shops, but longtime residents were being priced out of the market. Many of the middle-class Mexican,

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Japanese, Chinese and Philippine families who had anchored the neighborhood moved out during the late 1980s and early 1990s, and those who moved in were more likely to be white and higher-income.

The new occupants lived differently from the families who were leaving. Folks who drove their Toyotas and Hondas to work as teachers, nurses or small-business owners were replaced by screenwriters and studio musicians who drove Volvos and Subarus. Many of the incoming parents enrolled their children at private schools like Oakwood or Sequoya rather than at the local public schools, Micheltorena and Ivanhoe. We might bump into them perusing artisanal loaves at the Saturday farmers' market, but we didn't see them buying *medianoche* sandwiches at Café Tropical or burritos at Tacos Delta for picnics at Bellevue Park.

The next wave of home buyers, in the early 2000s, amplified the trend. The driveways of Silver Lake began sprouting Range Rovers and, later, Teslas driven by film and TV producers, tech entrepreneurs and actors. They didn't work in the neighborhood, and they didn't send their kids to local schools, but at least they wanted to live here.

ADVERTISEMENT

Then, a couple of years ago, I began to notice a new influx. They arrived in Ubers and Lyfts, dragging suitcases. They tended to smoke a lot of weed, play loud music and leave craft beer bottles and cigarette butts on the street in front of their short-term rentals.

Two of our neighbors began renting out space in their homes, bringing visitors who seemed not to know the rules. (No, you can't park there. No, you don't put your take-home containers from Sqirl and LA Mill in the green trash barrels.) Other neighbors began to complain about houses that had turned into full-time party pads, attracting a stream of people hosting gatherings that went on late into the night.

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Now the stream is a flood. The Airbnb page for Silver Lake lists more than 300 rental options in its "Entire Homes" category alone. About 30 of them are within a block or two

of my house. VRBO lists 437 rentals in Silver Lake, including houses, guest houses and rooms within houses.

The shift has changed life in Silver Lake. People buying homes or looking for long-term leases are likelier to take an interest in the condition of the local schools, parks, libraries and other public services. They are likelier to maintain their properties well, and to notice and report suspicious or criminal behavior on their streets.

The short-term renters are pushing those stakeholders out. “They are removing housing from the market, at a time when we desperately need more housing. They’re changing the whole feeling of the community,” said Barbara Ringuette of the Silver Lake Neighborhood Council.

I am against legislation that takes money out of the pockets of my neighbors, some of whom are retired, elderly or otherwise struggling to keep up with the rising costs of living in our increasingly hip neighborhood.

And I’m all for people who see the value in our area and want to own rental properties here. My wife and I rent out a house we inherited from her parents in the neighborhood, and we’ve had the same tenants for six years.

I’m less eager to see an increase in the population of folks just stopping by long enough to take a Silver Lake selfie. I remember from my youth there were businesses that catered specifically to such travelers. They were called hotels and motels, and I think they still provide that service.

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Charles Fleming writes about cars and motorcycles for The Times and is the author of the urban hiking guides “Secret Stairs” and “Secret Walks.”

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Economist Warns Of Airbnb's Impact On Housing Crisis



TRACEY VELT (HTTPS://WWW.REALTRENDS.COM/BLOG/AUTHOR/TVELT/) FEBRUARY 6, 2019 1.9K 0

Economist Warns of Airbnb's Impact on Housing Crisis

EPI researcher cautions local policymakers against letting Airbnb bypass tax or regulatory obligations.

(mailto:bfrize@realtrends.com)



according to research presented by Economic Policy Institute Research Director Josh Bivens in a new paper (https://www.epi.org/publication/the-economic-costs-and-benefits-of-airbnb-no-reason-for-local-policymakers-to-let-airbnb-bypass-tax-or-regulatory-obligations/). Local policymakers should pay heed, says Bivens, and certainly not change local regulations and tax structures to benefit Airbnb.

By limiting the number of long-term rental housing units (https://www.realtrends.com/blog/luxury-rentals-rise/), Airbnb increases the cost of rents overall, Bivens explains. Housing demand is relatively "inelastic" in that people's demand for somewhere to live doesn't decline when prices increase, so even small changes in housing supply—like those caused by converting long-term rental properties to Airbnb units—can cause significant price increases for local residents.

Housing costs (https://www.realtrends.com/blog/the-housing-affordability-conundrum/) have risen significantly faster than overall prices since 2000, and housing accounts for more than 15 percent of overall household consumption expenditures. Because housing costs are a serious issue for typical American families, anything that exacerbates their upward trend is cause for concern.

> *"The evidence is clear that any benefit that the introduction or expansion of Airbnb provides to a city's residents can be quickly offset by the costs it imposes," said Bivens. "Because Airbnb doesn't provide a compelling net benefit to city residents, there is little reason to think that traditional tax and regulatory structures governing travel accommodations should be changed to aid Airbnb's expansion."*

(mailto:bfriz@realtrends.com)

Price indices for short-term travel accommodations and overall personal

	Overall consumer goods prices	Short-term accommodations
2000	100	100
2001	101.9307	101.3374
2002	103.2984	101.5139
2003	105.3422	103.0112
2004	107.9056	108.5361
2005	110.9827	112.6608
2006	113.9515	117.591
2007	116.806	123.4831
2008	120.3703	124.785
2009	120.2921	118.4581
2010	122.2805	119.9578
2011	125.283	123.3742
2012	127.6551	125.921
2013	129.3525	126.922
2014	131.3072	132.8804
2015	131.697	136.9684
2016	133.2704	140.5032

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Source: Economic Policy Institute

The price of short-term travel accommodations has increased slightly faster than prices overall in recent years.

Benefits of Short-Term Airbnb Rentals

One of the potential benefits of Airbnb rentals is that it increases supply of short-term travel accommodations, and thus lowers its

accounts for just 1 percent of overall household consumption expenditures.

There is little evidence that cities with an increasing supply of short-term Airbnb rental accommodations are seeing a large increase in travelers. Instead, accommodations supplied via Airbnb seem to be a nearly pure substitution for other forms of accommodation. Two surveys indicate that only 2 to 4 percent of those using Airbnb say that they would not have taken the trip were Airbnb rentals unavailable.

Additionally, Bivens shows that while Airbnb allows property owners to diversify potential revenue streams from owning homes, the total value of housing wealth—and especially housing wealth besides primary residences—is quite concentrated among white and high-wealth households, so these benefits disproportionately accrue to the wealthy.

Lost Tax Revenue

Another large potential cost of Airbnb expansion is the loss of tax revenue as travelers switch to Airbnb from traditional hotels. Many cities impose relatively steep taxes on short-term lodging, hoping to obtain revenue from out-of-town travelers. The most common and straightforward of these revenue raisers is a tax on traditional hotel rooms.

If Airbnb expansion comes at the expense of traditional hotels, and if the apparatus for collecting taxes from Airbnb or its hosts is less well-developed than the apparatus for collecting taxes from traditional hotels, this could harm city revenues.

(mailto:bfrize@realtrends.com)

Several large American cities with a large Airbnb presence rely heavily on lodging taxes. Airbnb has largely blocked the ability of these cities to transparently collect lodging taxes on Airbnb rentals that are equivalent to lodging taxes on hotel rooms. One

transparency, and the rule of law."

Playing by the Same Rules

While initially Airbnb advertised itself as a way for homeowners (or long-term renters) to rent out a room in their primary residence, or as a way for people to rent out their dwellings for short periods while they themselves are traveling, the business has evolved. Bevins notes that in recent years Airbnb listings and revenues have become dominated by "multi-unit" renters—absentee property owners with multiple dwellings who are essentially running small-scale lodging companies on an ongoing basis.

Bevins concludes by raising questions about the preferential treatment afforded to Airbnb. These questions include, "Why isn't Airbnb required to ensure that lodging taxes are collected, as traditional hotels are?" And, "Why is Airbnb allowed to offer short-term rentals in residential neighborhoods that are not zoned for these uses, while traditional hotels are not allowed in these same neighborhoods?"

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Tracey Velt
(Https://Www.Realtrends.Com/Blog/Author/Tvelt/)

After earning her bachelor's degree in journalism at the University of Central Florida, Tracey set out in the real world at Florida Realtors in 1994 as a communication assistant, working her way up to editor in chief of Florida Realtor magazine. In 2004, she left the association to start her freelance writing and editing business. One of her first clients was REAL Trends, and she started working for the organization in 2005. In 2014, Tracey was promoted to editor in chief of publications for REAL Trends. She handles the writing and editing of all REAL Trends publications and marketing materials, including LORE Magazine, the REAL Trends newsletter and the blog. She is also the primary podcast interviewer where she conducts interviews with top real estate industry leaders and

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September 2016



Supporters of home-sharing services recently gathered outside Sam Francisco City Hall. *(Flickr/Kevin Krejci)*



By Frank Shafroth | Columnist

Director of the Center for State and Local Government Leadership at George Mason University

Home-sharing services like Airbnb are creating an awkward dilemma for cities and counties, especially in areas where housing costs are high. Municipalities are struggling to balance the economic boost from the growth of home-sharing services with the pressing need for affordable housing.

Before we go any further, let's put the considerable growth of such services into perspective. One study found that 400,000 Airbnb guests who visited New York City in 2012 and 2013 spent $632 million, supporting 4,580 jobs. As compared to tourists staying in hotels, Airbnb guests tended to stay two days longer and spent nearly $200 more at local businesses during their visit.

But in New York as in other cities and counties, this new revenue comes with a hitch: Home-sharing services take apartments off the long-term rental market and are a factor in driving up rents to unaffordable levels. Airbnb alone has 1.5 million listings in 34,000 cities.

The problem is particularly acute in New York City, despite a state law that prohibits residential properties with three or more units from being rented for less than 30 days unless the permanent resident is present. According to a report released in June by a consortium of housing activists, 55 percent of the 51,000 Airbnb listings in New York City violate that law. (This e the New York Legislature passe a home-sharing site, violators could be fined up

The report contends that th[redacted]nts in New York City would increase by 10 percent if "commercial profiteer" listings -- listings that are booked several times per month and listed for at least three months per year by someone who advertises multiple apartments on Airbnb -- were returned to the rental market. Presumably, rents would drop by an offsetting amount, making for significantly more affordable shelter for low- and moderate-income families.

The study showed that rents had risen fastest in the New York City neighborhoods where Airbnb is the most popular -- including gentrifying, predominantly minority neighborhoods like Bedford-Stuyvesant. It's only fair to note that the report was commissioned by affordable housing advocates who have long been critics of Airbnb.

New York is not alone in trying to deal with its home-sharing dilemma. Municipal leaders around the globe are increasingly torn between how to balance the goals of affordable housing and still reap the vitality and revenue from the so-called sharing economy.

In Chicago, city aldermen passed an ordinance in June, backed by Mayor Rahm Emanuel, that imposes a 4 percent surcharge on short-term rentals -- that is, in addition to Chicago's 17.4 percent hotel tax. The surtax will be used to help fund services for the homeless.

San Francisco, where rents are infamously high, requires short-term rental sites to take down any rental listing not registered with the city or be subject to fines for each one. Airbnb is attempting to block the ordinance by suing the city in federal court. It claims the city is violating the Communications Decency Act, which prevents governments from holding Internet platforms liable for content created by their users.

Meanwhile, several cities are tapping into home-sharing as a revenue stream -- ignoring, for now, the issue of affordable housing. In a recent deal worth about $5 million a year to Los Angeles, Airbnb will collect lodging taxes from rental hosts who are supposed to, but often do not, pay the same kind of lodging taxes as hotels. L.A. tax officials have struggled to track down hosts and make sure they pay. Now they'll get some help from Airbnb itself.

"There is going to be a lot of debate about how this industry is regulated," Miguel Santana, L.A.'s top budget official, told the *Los Angeles Times*. "We just want to make sure that while that conversation is taking place, the city is not missing out on millions of dollars in revenues."

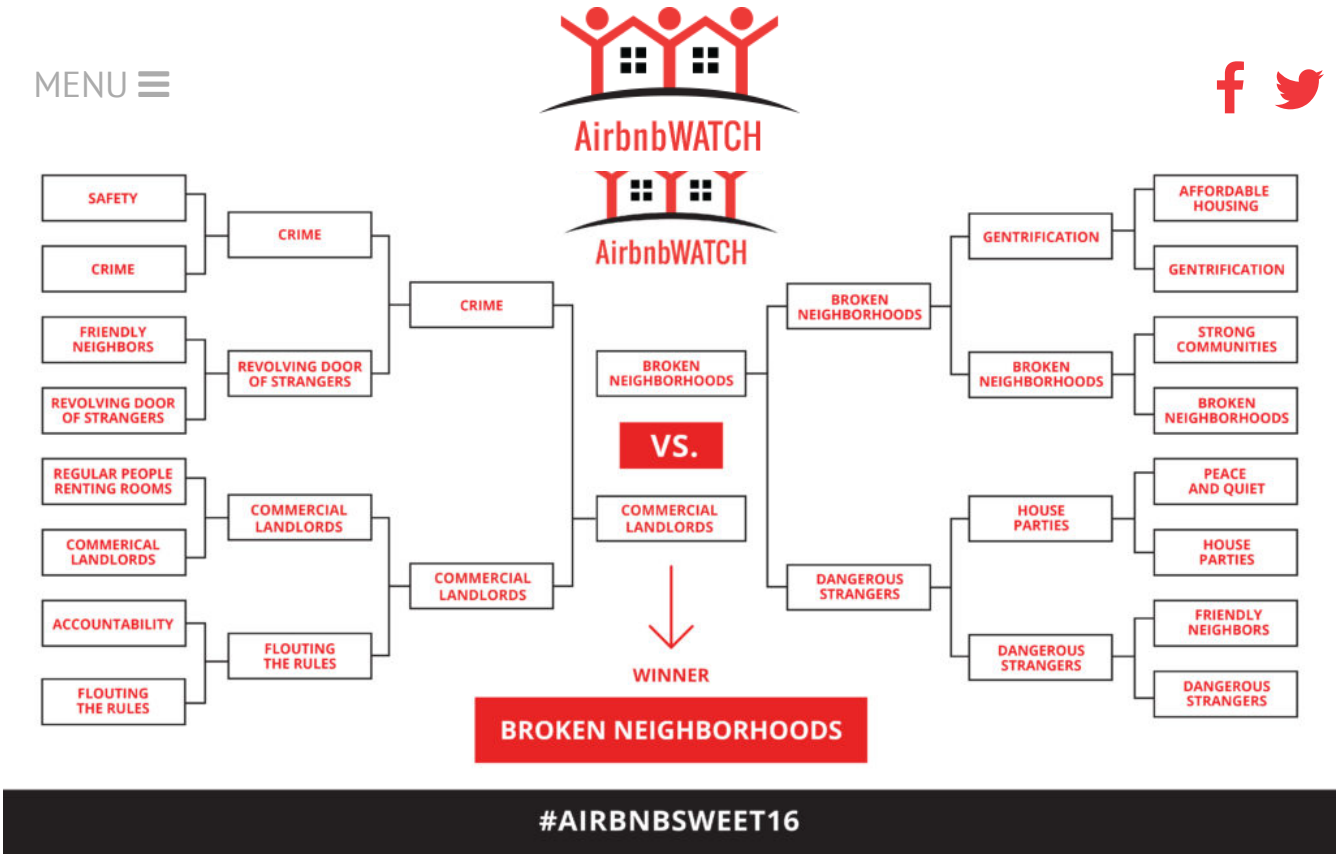


Frank Shafroth | Columnist | fshafroth@gmu.edu

Blog

Holding Airbnb accountable for keeping communities safe and playing by the rules.

Airbnb's Not So Sweet 16: Broken Neighborhoods



Basketball fans around the country are tuning in to see which team will be the big winner of NCAA's March Madness tournament. However, there's another competition playing out every day in neighborhoods across America – and it has to do with safe communities and affordable housing.

As it expands, Airbnb seems to be competing with itself to find new ways to ruin strong communities by replacing neighbors with dangerous strangers and big problems. Let's meet some of the competitors:

Attributes like "safety," "friendly neighbors," "affordable housing" and "peace of mind" are valued in every community, making them fan favorites. These are the places we spend our time, raise our children and build relationships with friends. Before Airbnb and other short-term rental services entered the scene, these are the things that countless Americans loved about their neighborhoods.

However, these pillars of strong neighborhoods face tough competition from Airbnb. Because of the lack of regulations and bad actors – namely commercial landlords buying and renting hundreds of units at a time – which Airbnb willfully ignores, our communities are matched up against "crime," "house parties," "dangerous strangers" and more.

Faced with Airbnb's many negative side effects, neighborhoods around the country are becoming unrecognizable to residents who have lived in them their entire lives. When commercial landlords are allowed to buy up multiple residences and replace neighbors with strangers and

America. When our safe, stable communities face up against Airbnb and its no-rules tactics, broken neighborhoods come out on top.

It's time to stop Airbnb and its illegal hotels and commercial landlords from driving out residents, jacking up rent and destroying our communities! We must regulate short-term rentals to promote healthy, safe neighborhoods.

Take action today. Call on your city council to lead the way!

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Subject: Monday Agenda Item 5 A Short Term Rentals

From: Rosemary Sampson
Sent: Sunday, October 27, 2019 7:15 PM
To: KFarrer@mailbucity.org <KFarrer@mailbucity.org>; Mikke Pierson <mpierson@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Skylar Peak <speak@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>
Subject: Monday Agenda Item 5 A Short Term Rentals

The Economic Policy Institute, a 501 C Non-Profit Organization based in Washington D.C.
is an American think tank that carries out economic research and analyzes the economic impact of policies and proposal .
It conducted an in-depth review entitled "The Economic Costs and Benefits of Airbnb published on January 30, 2019. The report was written by Josh Bivens. Mr Bivens' credentials are included in the back of the article.

Since the 5A Short Term Rentals discussion is about the economics of this type of activity on the community and it's citizens, I asks as a concerned citizen that each council member read this report and seriously consider it in any decision made by our council and our city on this topic. It is full of facts and figures that present both sides of this subject.
I am including the link to this report for your review.

https://www.epi.org/publication/the-economic-costs-and-benefits-of-airbnb-no-reason-for-local-policymakers-to-let-airbnb-bypass-tax-or-regulatory-obligations/

Respectfully
Rosemary M Sampson

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The economic costs and benefits of Airbnb

No reason for local policymakers to let Airbnb bypass tax or regulatory obligations

Report • By Josh Bivens • January 30, 2019

Summary: Analysis shows that the costs of Airbnb expansion to renters and local jurisdictions likely exceed the benefits to travelers and property owners. Thus there is no reason policymakers should reverse long-standing regulatory decisions simply to accommodate the rise of a single company.

Updated March 26, 2019

Summary

"The sharing economy" refers to a constellation of (mostly) Silicon Valley–based companies that use the internet as their primary interface with consumers as they sell or rent services. Because this term is "vague and may be a marketing strategy" (AP 2019), we refer to these firms less poetically but more precisely as "internet-based service firms" (IBSFs).

Economic policy discussions about IBSFs have become quite heated and are too often engaged at high levels of abstraction. To their proponents, IBSFs are using technological advances to bring needed innovation to stagnant sectors of the economy, increasing the quality of goods and services, and providing typical American families with more options for earning income; these features are often cited as reasons why IBSFs should be excused from the rules and regulations applying to their more traditional competitors. To skeptics, IBSFs mostly represent attempts by rich capital owners and venture capitalists to profit by flouting regulations and disguising their actions as innovation.

The debates about whether and how to regulate IBSFs often involve theories about their economic costs and benefits. This report aims to inform the debate by testing those theories. Specifically, it assesses the potential economic costs and benefits of the expansion of one of the most well-known of the IBSFs: the rental business Airbnb.

Airbnb, founded in 2008, makes money by charging guests and hosts for short-term rental stays in private homes or apartments booked through the Airbnb website. It started in prototype in San Francisco and expanded rapidly, and is now operating in hundreds of cities around the world. Airbnb is frequently depicted as a boon for travelers looking for lower-cost or nontraditional accommodations, and for homeowners looking to expand their income stream. But in many local markets, the arrival and expansion of Airbnb is raising questions about its potential negative impacts on local housing costs, quality

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of life in residential neighborhoods, employment quality in the hospitality industry, and local governments' ability to enforce municipal codes and collect appropriate taxes.

In our cost-benefit analysis, we find:

- **The economic costs Airbnb imposes likely outweigh the benefits.** While the introduction and expansion of Airbnb into U.S. cities and cities around the world carries large potential economic benefits and costs, the costs to renters and local jurisdictions likely exceed the benefits to travelers and property owners.
- **Airbnb might, as claimed, suppress the growth of travel accommodation costs, but these costs are not a first-order problem for American families.** The largest and best-documented potential benefit of Airbnb expansion is the increased supply of travel accommodations, which could benefit travelers by making travel more affordable. There is evidence that Airbnb increases the supply of short-term travel accommodations and slightly lowers prices. But there is little evidence that the high price of travel accommodations is a pressing economic problem in the United States: The price of travel accommodations in the U.S. has not risen particularly fast in recent years, nor are travel costs a significant share of American family budgets.
- **Rising housing costs are a key problem for American families, and evidence suggests that the presence of Airbnb raises local housing costs.** The largest and best-documented potential cost of Airbnb expansion is the reduced supply of housing as properties shift from serving local residents to serving Airbnb travelers, which hurts local residents by raising housing costs. There is evidence this cost is real:
    - Because housing demand is relatively inelastic (people's demand for somewhere to live doesn't decline when prices increase), even small changes in housing supply (like those caused by converting long-term rental properties to Airbnb units) can cause significant price increases. High-quality studies indicate that Airbnb introduction and expansion in New York City, for example, may have raised average rents by nearly $400 annually for city residents.
    - The rising cost of housing is a key problem for American families. Housing costs have risen significantly faster than overall prices (and the price of short-term travel accommodations) since 2000, and housing accounts for a significant share (more than 15 percent) of overall household consumption expenditures.
- **The potential benefit of increased tourism supporting city economies is much smaller than commonly advertised.** There is little evidence that cities with an increasing supply of short-term Airbnb rental accommodations are seeing a large increase in travelers. Instead, accommodations supplied via Airbnb seem to be a nearly pure substitution for other forms of accommodation. Two surveys indicate that only 2 to 4 percent of those using Airbnb say that they would not have taken the trip were Airbnb rentals unavailable.
    - Studies claiming that Airbnb is supporting a lot of economic activity often vastly overstate the effect because they fail to account for the fact that much of this spending would have been done anyway by travelers staying in hotels or other alternative accommodations absent the Airbnb option.

- **Property owners do benefit from Airbnb's capacity to lower the transaction costs of operating short-term rentals, but the beneficiaries are disproportionately white and high-wealth households.** Wealth from property ownership is skewed, with higher-wealth and white households holding a disproportionate share of housing wealth overall—and an even more disproportionate share of housing wealth from nonprimary residences because they are much more likely to own nonprimary residential property (such as multi-unit Airbnb rentals).
- **The shift from traditional hotels to Airbnb lodging leads to less-reliable tax payments to cities.** Several large American cities with a large Airbnb presence rely heavily on lodging taxes. Airbnb has largely blocked the ability of these cities to transparently collect lodging taxes on Airbnb rentals that are equivalent to lodging taxes on hotel rooms. One study found that the voluntary agreements Airbnb has struck with state and local governments "[undermine] tax fairness, transparency, and the rule of law."
- **City residents likely suffer when Airbnb circumvents zoning laws that ban lodging businesses from residential neighborhoods.** The status quo of zoning regulations in cities reflects a broad presumption that short-term travelers likely impose greater externalities on long-term residents than do other long-term residents. Externalities are economic costs that are borne by people not directly engaged in a transaction. In the case of neighbors on a street with short-term renters, externalities include noise and stress on neighborhood infrastructure like trash pickup. These externalities are why hotels are clustered away from residential areas. Many Airbnb rental units are in violation of local zoning regulations, and there is the strong possibility that these units are indeed imposing large costs on neighbors.
- **Because Airbnb is clearly a business competing with hotel lodging, it should be subject to the same taxation regime as hotels.** In regard to zoning regulations, there is no empirical evidence that the net benefits of Airbnb introduction and expansion are so large that policymakers should reverse long-standing regulatory decisions simply to accommodate the rise of a single company.

Overview of the economics of Airbnb

Airbnb runs an online marketplace for short-term lodging rentals. It largely does not own dwellings or real estate of its own; instead, it collects fees by acting as a broker between those with dwellings to rent and those looking to book lodging.

The perception that Airbnb tries to foster is that its "hosts" are relatively typical households looking to earn supplementary income by renting out rooms in their homes or by renting out their entire residence when they're away. Critics argue that Airbnb bookings have become increasingly concentrated among a relatively small number of "hosts" that are essentially miniature hotel companies.[1]

Potential economic benefits

At a broad level, the potential economic benefits and costs of Airbnb are relatively straightforward.[2]

The key potential benefit is that property owners can **diversify the potential streams of revenue** they generate from owning homes. Say, for example, that before Airbnb arrived in a city, property owners setting up residential rental properties faced transaction costs so high that it only made economic sense to secure relatively long-term leases. These transaction costs incurred by property owners could include advertising for and screening of tenants and finding alternative accommodations for themselves if they were renting their own dwellings. But if the rise of internet-based service firms reduced these transaction costs and made short-term rentals logistically feasible and affordable for the first time, it could allow these property owners to diversify into short-term rentals as well as long-term rentals.

Another potential benefit is the **increased supply (and variety) of short-term rentals** available to travelers. This increased supply can restrain price growth for short-term rentals and make traveling more affordable.

Finally, one well-advertised potential benefit of Airbnb is the **extra economic activity that might result** if the rise of Airbnb spurs an increase in visitors to a city or town. Besides the income generated by Airbnb property owners, income might be generated by these visitors as they spend money at restaurants or in grocery stores or on other activities.

Potential costs

The single biggest potential cost imposed by Airbnb comes in the form of **higher housing costs for city residents** if enough properties are converted from long-term housing to short-term accommodations. If property owners take dwellings that *were* available for long-term leases and convert them to short-term Airbnb listings, this increases the supply of short-term rentals (hence driving down their price) but decreases the supply of long-term housing, increasing housing costs for city residents. (We refer to all long-term costs of shelter as "housing," including rentals and owners' equivalent rental costs.)

Another large potential city-specific cost of Airbnb expansion is the **loss of tax revenue**. Many cities impose relatively steep taxes on short-term lodging, hoping to obtain revenue from out-of-town travelers to spend on local residents. The most common and straightforward of these revenue raisers is a tax on traditional hotel rooms. If Airbnb expansion comes at the expense of traditional hotels, and if the apparatus for collecting taxes from Airbnb or its hosts is less well-developed than the apparatus for collecting taxes from traditional hotels, this could harm city revenues.

A further potential cost is the **externalities that property rentals (of all kinds) impose** on neighbors, for example, noise and/or use of building facilities. Since hosts are often not on-site with their renters, they do not bear the costs of these externalities and hence may not factor them into rental decisions. Of course, one could argue that such externalities

are also incurred with long-term rentals not arranged through Airbnb. But if the expansion of Airbnb increases total short- and long-term rental activity, or if short-term rentals impose larger externalities than long-term rentals, then Airbnb expansion can increases these externalities.

Finally, if Airbnb expansion comes at the expense of traditional hotels, it could have a **negative impact on employment**. First, since some of the labor of maintaining Airbnb lodgings is performed by the property owners themselves, the shift to Airbnb from traditional hotels would actually reduce employment overall. Second, since the task of cleaning and maintaining rooms and even greeting Airbnb renters is often done by third-party management firms, the shift from the traditional hotel sector to Airbnb rentals could degrade job quality.

The rest of this report evaluates the potential scope of each of these benefits and costs, and ends with an overall assessment of the effect of Airbnb expansion.

Potential benefits of Airbnb introduction and expansion in U.S. cities

This section elaborates on the potential benefits identified in the previous section. For each benefit, it assesses how likely the benefit is to emerge, provides empirical estimates of the magnitude of the benefit, and discusses the likely distribution of the benefit.

Potential benefit one: Property owners can diversify into short-term rentals

The most obvious benefit stemming from the creation and expansion of Airbnb accrues to property owners who have units to rent. Owners of residential property have essentially three options for earning a return on the property: They can live in the residence and hence not have to pay rent elsewhere, they can rent it out to long-term residents, or they can rent it out to short-term visitors.

If the only barrier to renting out residential property to short-term visitors were the associated transaction costs, then in theory the creation and expansion of Airbnb could be reducing these transaction costs and making short-term rental options more viable. It does seem intuitive that transaction costs of screening and booking short-term renters would be higher over the course of a year than such costs for renting to long-term residents (or the costs of maintaining owner-occupied property). However, the potential benefits are only the *difference* between what the property owner earned before the introduction of Airbnb and what the property owners earned from short-term rentals booked through the Airbnb platform.

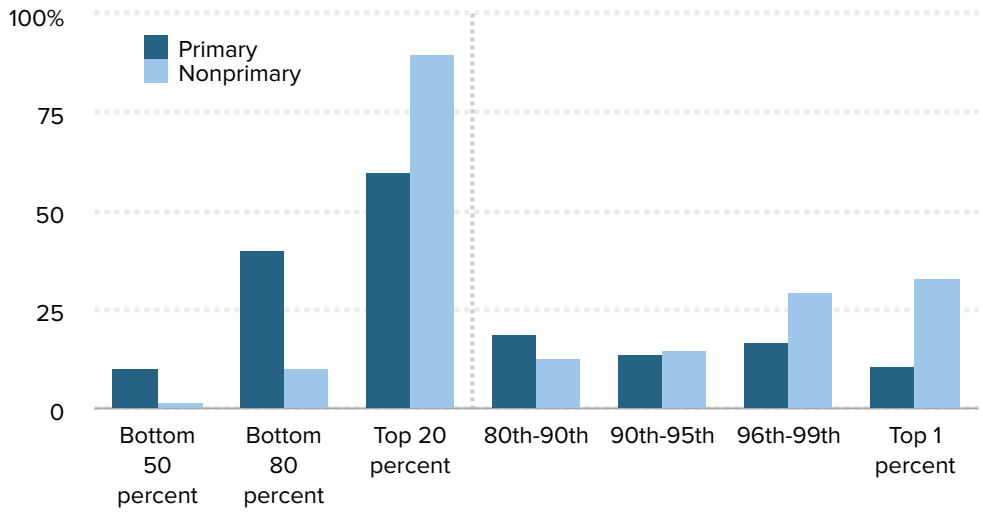
These potential benefits are likely quite skewed to those with more wealth. While housing is more widely held than most other assets, the total value of housing wealth is (like all wealth) quite concentrated among white and high-income households. Further, because of the myriad benefits of owning one's own residence, it is likely that much of the benefit of Airbnb's introduction and expansion accrues to those with more than one property (one for occupying and one or more for renting).[3] The distribution of property wealth generated by nonprimary residential real estate is even more concentrated than housing wealth overall. **Figure A** shows, by wealth class, the distribution of housing wealth overall and of housing wealth excluding owner-occupied housing.

This figure shows that the potential benefits of Airbnb introduction and expansion to property owners are highly concentrated. To put it simply, any economic occurrence that provides benefits proportional to owning property is one that will grant these benefits disproportionately to the wealthy. In 2016, for example, 60.0 percent of primary housing wealth (housing wealth in households' primary residences) was held by the top 20 percent

Figure A

Housing wealth—particularly wealth from owning a nonprimary residence—is skewed

Share of total primary and nonprimary household housing wealth in the U.S. economy held by each wealth class, 2016



Note: Primary housing wealth is wealth from owner-occupied housing. Nonprimary housing wealth is wealth from nonowner-occupied housing. The wealth classes depicted overlap, with the top 20 percent broken down into households falling within the 80th to 90th, 90th to 95th, and 96th to 99th percentiles.

Source: Author's analysis of microdata from the Federal Reserve Board Survey of Consumer Finances (2016)

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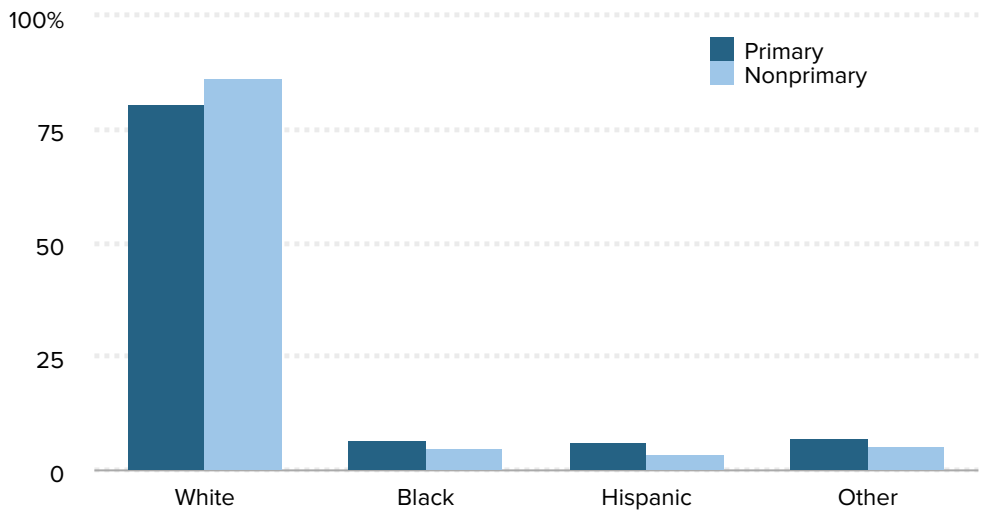
of households. (Not shown in the figure is that this share has increased by 5.4 percentage points since 1989.) As we noted earlier, however, many Airbnb listings are actually owned by households with multiple units to rent. Given this, Figure A also shows the share of housing wealth from nonprimary residences held by various groups. This "nonprimary housing wealth" is far more skewed. For example, the top 20 percent hold 90.1 percent of this type of wealth.

Figure B shows the distribution of housing wealth by race and ethnicity. Across racial groups, more than 80 percent of wealth in one's primary residence was held by white households. African American households held just 6.5 percent of wealth in primary residences, Hispanic households held 6.0 percent of this type of wealth, while households of other races and ethnicities held 6.9 percent. Not shown is the change in the share of wealth in primary residences held by racial and ethnic groups: Primary housing wealth held by nonwhite households has risen a bit (by roughly 6 percentage points) since 1989. As with the distribution by wealth class, the holdings of nonprimary housing wealth by race and ethnicity are again even more skewed, with white households holding more than 86 percent of this type of wealth. African American households hold just 5.0 percent of nonprimary housing wealth, Hispanic households hold 3.6 percent, and households of other races and ethnicities hold 5.2 percent.

Figure B

White households disproportionately benefit from housing wealth

Share of total primary and nonprimary household housing wealth held, by race and ethnicity



Note: Primary housing wealth is wealth from owner-occupied housing. Nonprimary housing wealth is wealth from nonowner-occupied housing. Hispanic means "Hispanic any race" and the race/ethnicity categories are mutually exclusive.

Source: Author's analysis of microdata from the Federal Reserve Board Survey of Consumer Finances (2016)

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In short, what Figures A and B show is that because wealth from residential properties that can produce rental income is concentrated among the wealthy and white households, giving property owners the unfettered option to choose Airbnb over long-term rental uses of their property means conferring an enhanced option to predominantly wealthy and white owners of housing wealth. (**Appendix Table 1** provides the same analyses shown in Figures A and B for the years 1989, 1998, and 2007, and for the most recent data year, 2016, as well as the change from 1989 to 2016.)

Finally, while Airbnb might make short-term rentals feasible for property owners by reducing transaction costs through the technological efficiencies provided by Airbnb's internet-based platform, the company might also just make short-term rentals feasible by creating a norm of ignoring regulations that bar short-term rentals. Short-term rentals are effectively banned in many residential neighborhoods in the cities where Airbnb operates, yet they have proliferated after the introduction of Airbnb.[4] The regulations barring or limiting short-term rentals were established to reduce the externalities associated with commercial operations of certain kinds—including hotel operations—in residential neighborhoods. Airbnb's business model appears to depend significantly on skirting these regulations and dodging competition from traditional hotel owners who are prohibited from operating in these same neighborhoods. If the regulations banning short-term rentals are baseless and serve no useful purpose, then subverting them could be seen as a

benefit of Airbnb. But allowing large corporations such as Airbnb to simply ignore regulations—rather than trying to change them through democratic processes—is hardly the basis of sound public policy.

Potential benefit two: Increased options and price competition for travelers' accommodations

Airbnb is essentially a positive supply shock to short-term accommodations. Like all positive supply shocks, it should be expected to lower prices. There is some accumulating evidence that Airbnb does exactly this. Zervas, Proserpio, and Byers (2017) examine the effect of Airbnb expansion across cities in Texas. They find that each 10 percent increase in the size of the Airbnb market results in a 0.4 percent decrease in hotel room revenue. They find that most of this revenue decline is driven by price declines. Evidence of the positive supply shock is particularly evident in the 10 American cities where Airbnb's presence is largest. Dogru, Mody, and Suess (2019) find a negative correlation between Airbnb expansion and hotels' average daily rates in the 10 U.S. cities with the largest Airbnb presence.

Besides cost, the introduction and expansion of Airbnb could improve the perceived quality of accommodations available. There is some limited evidence that this is the case: a survey by doctoral candidate Daniel Adams Guttentag (2016) finds that "convenient location" is one of the top reasons given by Airbnb guests when asked why they chose the service. But the Guttentag 2016 survey also identifies "low cost" as the *single most-identified* reason people give when asked why they chose Airbnb.

However, it should be stressed that this potential benefit of Airbnb introduction and expansion is overwhelmingly a *redistribution* of welfare, not an *increase* in economywide welfare. Very few people have claimed that Airbnb's spread within a given city has led developers to build *more accommodations* in the city overall. Instead, owners or third parties have often turned long-term rental units into short-term lodging via Airbnb.

The question then becomes, "Has this redistribution of potential accommodations from the long-term to the short-term market increased economic welfare overall?" One way that Airbnb could be increasing economic welfare overall is if it were helping travelers deal with rising travel accommodation costs.

By looking at trends in prices and spending in the short-term lodging sector, we can get a commonsense check on whether high prices for short-term travel accommodations are a pressing economic problem for ordinary American households. If the price of short-term travel accommodations were rising rapidly, then presumably an increase in supply that restrained price increases would be valuable (or at least more valuable than if these prices were not showing any particularly trend). The two lines in **Figure C** show changes in the consumer price index for travel accommodations compared with changes in the overall price index for personal consumption expenditures (PCE). According to Figure C, in the 2010s, the price of short-term travel accommodations has grown faster than prices overall only since 2014—this is the same year that ushered in the large-scale expansion of Airbnb.

Figure C

The price of short-term travel accommodations has increased slightly faster than prices overall, but only in recent years

Price indices for short-term travel accommodations and overall personal consumption expenditures (PCE), 2000–2016



Source: Author's analysis of Bureau of Economic Analysis National Income and Product Accounts (NIPA) Table 2.4.4.

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So it certainly seems that the launch and growth of Airbnb was not solving any preexisting price pressure—because it was operating and expanding well before recent years' price growth. (Further, it is possible that by substituting more strongly for a less-expensive slice of the traditional hotel market—leisure travel as opposed to business travel, for example—that Airbnb introduction might actually be associated with raising measured short-term travel accommodation prices, through a composition effect.)

Potential benefit three: Travelers' spending boosts the economic prospects of cities

The lower prices and greater range of options made available by the introduction and expansion of Airbnb could, in theory, induce a large increase in travel and spark economic growth in destination cities. This is precisely the claim made in a report by NERA Economic Consulting (NERA 2017), which says that Airbnb "supported" 730,000 jobs and $61 billion in output globally, with roughly a quarter of this economic gain occurring in the United States.

To be blunt about these claims, they are flatly implausible. They rest on the assumption that all money spent by those renting Airbnb units is money that would not have been spent in some alternative accommodations had Airbnb not existed.

Say, for example, that guests at Airbnb properties spent $10 million in New York City in 2016, including the money spent at restaurants and theaters and other attractions while visiting the city. The rental payment these guests make is included in the NERA numbers, but is expressed as extra income for Airbnb hosts. NERA then takes this entire $10 million in spending (both nonaccommodation spending by visitors and the extra income going to Airbnb hosts) and runs it through input–output models to generate multiplier effects that yield their final numbers for output and employment supported in each city.

There are a number of problems with the NERA study. First, it is surprisingly opaque. It does not provide overall global and U.S. spending numbers or break these numbers into their components: nonaccommodation spending by Airbnb guests and income generated for Airbnb hosts. It also does not report the assumed size of the multiplier. Rather, it provides final numbers for global and U.S. output and employment that are functions of primary spending flows multiplied by the effects of their input–output model. The study states that it uses the well-known IMPLAN model, but IMPLAN can generate multipliers of varying size: It would be valuable to know just how large NERA is assuming the multiplier effects of this Airbnb-related spending is, just as a plausibility check.

Second, the study seems clearly written to maximize the perceived support Airbnb might provide local economies—both now and into the future. For example, toward the end of the report NERA provides several tables showing projected support for output and employment for years after the study (from 2017 to 2025). These projected *future* contributions to output and employment dwarf the contribution that is apparent in the actual data analyzed by NERA. But these projections rely on overoptimistic assumptions about Airbnb's future growth. For example, NERA forecasts growth of 75 percent for Airbnb arrivals in 2017,[5] but another study (Molla 2017) suggests that these arrivals in fact grew by closer to 25–50 percent, with growth rates particularly slowing in the U.S. and the European Union.[6]

What is by far the most important weakness of the NERA analysis is its reliance on the assumption that *all* spending done by travelers staying at Airbnb properties is spending that would not have been done had Airbnb not existed. The possibility that Airbnb visitors would still have visited a city even if Airbnb units were unavailable—by securing alternative accommodations—is completely ruled out by the NERA analysis. This is obviously an incorrect assumption. For example, it assumes that Airbnb and traditional hotels are not seen as potential substitutes for each other in the minds of travelers. But research has shown that they *are* quite close substitutes. Zervas, Proserpio, and Byers (2017) empirically assess the effect of Airbnb's expansion on the hotel industry in the state of Texas. In their introduction, they write, "Our hypothesis is that some stays with Airbnb serve as a substitute for certain hotel stays, thereby impacting hotel revenue…." In their discussions and conclusions section, they summarize what their empirical investigation has found: "Focusing on the case of Airbnb, a pioneer in shared accommodations, we estimate that its entry into the Texas market has had a quantifiable negative impact on local hotel room revenue." Put simply, this result is completely inconsistent with the assumption that Airbnb has no potential substitutes for those using its services. This in turn means that at least some of the economic activity "supported" in local economies by spending done by Airbnb guests is activity that would have been supported absent Airbnb, likely by these

same guests staying in traditional hotels or other accommodations.

As discussed in a previous section, Guttentag (2016) reports the findings of a survey of Airbnb users. Among other questions, the survey explicitly asks how substitutable travelers find Airbnb lodgings. The precise question is, "Thinking about your most recent Airbnb stay—If Airbnb and other similar person-to-person paid accommodations services (e.g., VRBO) did not exist, what type of accommodation would you have most likely used?" Only 2 percent of Airbnb users responded to this question with the assertion that they would not have taken the trip. The remaining 98 percent identified other lodging possibilities that they would have used. In a similar survey that included some business travelers, Morgan Stanley Research 2017 reports near-identical findings, with between 2 and 4 percent of respondents saying that they would not have undertaken a trip but for the presence of Airbnb.[7] In both the Morgan Stanley Research survey and the Guttentag survey, roughly three-fourths of the respondents indicated that Airbnb was substituting for a traditional hotel.

If the Guttentag 2016 and Morgan Stanley Research 2017 findings are correct, this implies that NERA overstates the support Airbnb provides to local economies by somewhere between 96 and 98 percent. It is possible that some flows of spending might support more local spending when associated with Airbnb instead of traditional hotels—for example, one could argue that income accruing to Airbnb hosts is more likely to be spent locally than money paid to large hotel chains. However, the reverse is also true—for example, Airbnb rentals are far more likely to come equipped with a kitchen, and so Airbnb lodgers might be more likely to eat in rather than patronize restaurants.

Additionally, the local spillover spending associated with Airbnb expansion might not be uniform across neighborhoods. Alyakoob and Rahman (2018) document a modest increase in local restaurant spending associated with expanding Airbnb presence. Essentially, restaurants located away from central hotel cores in cities are unlikely to attract many out-of-town tourists. But if Airbnb penetration in outlying neighborhoods increases, restaurants there might now be able to tap some of this tourist market. Alyakoob and Rahman find that every 2 percent rise in Airbnb activity in a given neighborhood increases restaurant employment in that neighborhood by 3 percent. Crucially, Alyakoob and Rahman make no such calculation for potential employment-depressing effects of restaurants closer to traditional hotels. Further, they find that the boost to restaurant employment given by greater Airbnb activity does not occur in areas with a relatively high share of African American residents.

Finally, given that the overwhelming share of jobs "supported" by Airbnb are jobs that would have been supported by guests in some alternative accommodation, it seems likely that even if there is a slight increase in *spending* associated with a slight (about 2 percent) increase in visitors to a city due to Airbnb, there may well be a decline in *jobs*. We have noted previously that it is quite possible that traditional hotels are a more labor-intensive source of accommodation than are Airbnb listings. If, for example, Airbnb operators employ fewer people to provide cleaning and concierge and security services, then each dollar spent on Airbnb accommodations is likely to support less employment than each dollar spent on traditional hotel accommodations.

We can gauge the employment effect with a hypothetical scenario that assumes that the Guttentag 2016 and Morgan Stanley Research 2017 analyses are correct and that only 2 to 4 percent of the spending supported by Airbnb represents net new spending to a locality. In this case, if even half of the overall spending "supported" by Airbnb is a pure expenditure shift away from traditional hotels, and if traditional hotels are even 5 to 10 percent more labor-intensive than Airbnb units, then introducing Airbnb would actually have a *negative* effect on employment.[8]

Even if one grants that 2 to 4 percent of the output supported by Airbnb in host cities is net new spending, this spending is just a redistribution away from other, presumably less-Airbnb-intensive, localities. Given that Airbnb has tended to grow in already rich and desirable cities, it is unclear why inducing the transfer of even more economic activity away from other cities toward thriving cities would ever be viewed as a positive policy outcome.

In short, the results of the NERA study should be ignored by policymakers seeking an accurate sense of the scale of Airbnb expansion costs and benefits.[9]

Potential costs of Airbnb introduction and expansion

This section elaborates on the potential costs highlighted in the overview section. It assesses the likely outcome of these costs, estimates their empirical heft, and assesses the likely distribution of these costs.

Potential cost one: Long-term renters face rising housing costs

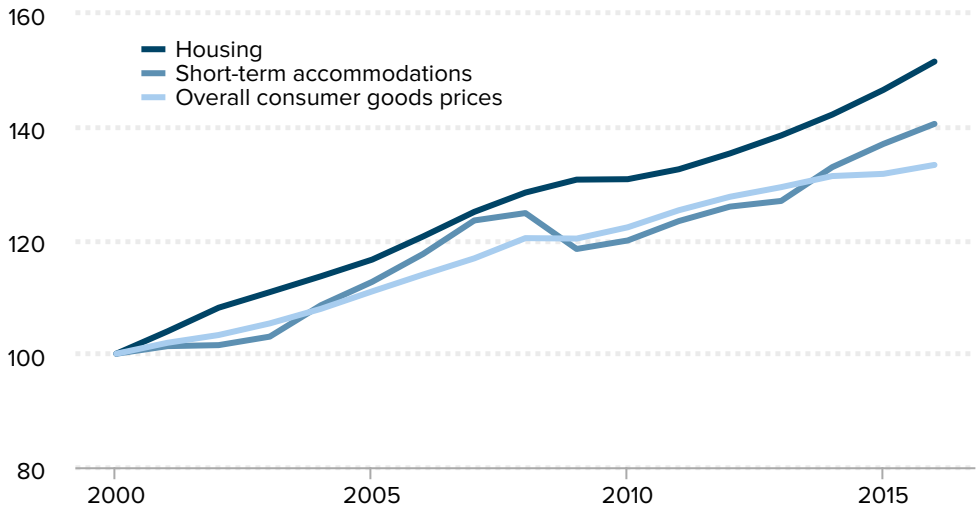
The mirror image of Airbnb's positive supply shock to short-term travel accommodations is its negative supply shock to long-term housing options. Again, none of the literature reviewed in this paper suggests that the introduction and expansion of Airbnb has spurred more residential construction overall, so as more units become available to Airbnb customers, this means that fewer potential housing units are available to long-term renters or owner-occupiers in a city.

Earlier, we saw that price increases in short-term travel accommodations have been in line with overall consumer price increases in recent years, suggesting that there is no obvious shortage in short-term accommodations. (It is important to note that the tracking of short-term travel accommodation prices and overall prices was tight well before Airbnb was exerting any serious effect one way or the other on prices.) However, national prices of long-term housing are rising faster than overall prices, suggesting a shortage of long-term housing. Because of this above-inflation growth in long-term housing costs, any trend that exacerbates this increase is more damaging than if these prices had been relatively flat in recent years. **Figure D** shows inflation in the price indices for housing (long-term rentals as

Figure D

Housing costs are rising faster than costs of short-term accommodations or overall consumer goods

Price indices for housing, short-term travel accommodations, and overall personal consumption expenditures (PCE), 2000–2016



Note: The housing price index includes both long-term rentals as well as imputed rents for owner-occupied housing.

Source: Author's analysis of Bureau of Economic Analysis National Income and Product Accounts (NIPA) Table 2.4.4

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well as imputed rents for owner-occupied housing) and for short-term travel accommodations, and in the overall personal consumption expenditures index. In recent years, long-term housing price growth has clearly outpaced both overall price growth and increases in the price of short-term travel accommodations. This recent rise in the inflation rate of long-term housing, in fact, has become a much-discussed policy challenge that has spurred much commentary and analysis over the past decade.

The fact that the cost of long-term housing has become a prime source of economic stress for typical Americans should be considered when weighing the costs and benefits of Airbnb's introduction and expansion. Crucially, demand for housing is quite inelastic, meaning that households have little ability to forgo housing when it becomes more expensive. When demand is inelastic, even relatively small changes in housing supply can cause significant changes in the cost of housing.[10] This intuition is clearly validated in a number of careful empirical studies looking precisely at the effect of Airbnb introduction and expansion on housing costs.

According to these studies, Airbnb—though relatively new—is already having a measurable effect on long-term housing supply and prices in some of the major cities where it operates. For example, Merante and Horn (2016) examine the impact of Airbnb on rental prices in Boston. The authors construct a rich data set by combining data on weekly

rental listings from online sources and data from Airbnb listings scraped from web pages. They find that each 12 Airbnb listings per census tract leads to an increase in asking rents of 0.4 percent. It is important to note that this is a finding of causation, not just correlation. They put this finding in perspective as follows:

> If Airbnb's growth rate in 2015, 24%, continues for the next three years, assuming constant mean rents and total number of housing units, Boston's mean asking rents in January 2019 would be as much as $178 per month higher than in the absence of Airbnb activity. We further find evidence that Airbnb is increasing asking rents through its suppression of the supply of rental units offered for rent. Specifically, a one standard deviation increase in Airbnb listings [an average of 12 units per census tract] relative to total housing units is correlated with a 5.9% decrease in the number of rental units offered for rent. (Merante and Horn 2016)

Barron, Kung, and Proserpio (2018) undertake a similar exercise with different data. They create a data set that combines Airbnb listings, home prices and rents from the online real estate firm Zillow, and time-varying ZIP code characteristics (like median household income and population) from the American Community Survey (ACS). To account for the fact that rents and Airbnb listings might move together even if there is no causal relationship (for example, if both are driven by the rising popularity of a given city), they construct an instrumental variable to identify the causal effect of rising Airbnb listings on rents. Using this instrument, they find that a 10 percent increase in Airbnb listings in a ZIP code leads to a 0.42 percent increase in ZIP code rental prices and a 0.76 percent increase in house prices. They also find that the increase in rents is larger in ZIP codes with a larger share of nonowner-occupied housing. Finally, like Merante and Horn, they find evidence that Airbnb listings are correlated with a rise in landlords shifting away from long-term and toward short-term rental operations.

Sheppard and Udell (2018) also undertake a similar exercise, looking within neighborhoods of New York City. Their key finding is that a doubling of Airbnb activity within a tight geographic zone surrounding a home sale is associated with a 6 to 11 percent increase in sales prices. Their coefficient values are quite close to those from Barron, Kung, and Proserpio (2018).[11]

Wachsmuth et al. (2018) apply the regression results identified by Barron, Kung, and Proserpio (2018) to the large increase in Airbnb rentals in New York City. They find a 1.4 percent increase in NYC rents from 2015 to 2017 due to Airbnb's expansion in that city. For the median NYC renter, this implies a $384 annual increase in rent from 2015 to 2017 due to Airbnb's expansion over that time.

Potential cost two: Local government tax collections fall

For the localities making policy decisions regarding the expansion of Airbnb, perhaps the single biggest consideration is fiscal. Across the United States, total lodging taxes are significant: For the 150 largest cities, the all-in lodging tax rate (including state, county, and

city taxes) averaged more than 13 percent (Hazinski, Davis, and Kremer 2018). The temptation for any given locality to set relatively high lodging tax rates (particularly when compared with overall sales tax rates) seems clear—city residents pay little of the lodging tax but still enjoy the benefits funded by the tax. For a number of cities, the total revenue collected is substantial. In 2016, for example, New York City and Las Vegas each collected well over $500 million in lodging taxes, and San Francisco collected just under $400 million.

It seems odd to exclude Airbnb stays from the lodging tax, yet the tax treatment of Airbnb rentals is inconsistent and incomplete. The company has entered into a number of tax agreements with state and local governments and is clearly trying to build the impression that it wants to help these governments collect taxes. Yet a number of tax experts argue that Airbnb's efforts to collect and remit lodging taxes (as well as other taxes) have been wholly insufficient.

A description in Schiller and Davis 2017 of the state of Airbnb's tax agreements as of early 2017 highlights the patchy, voluntary nature of the tax regime that Airbnb faces:

> Airbnb, whose operations in some instances may violate traditional local zoning and rental ordinances, has sought to legitimize its business by negotiating agreements with cities under which it will collect local sales and lodging taxes. "Working together, platforms like Airbnb can help governments collect millions of dollars in hotel and tourist tax revenue at little cost to them," the company stated in a "policy tool chest" it offered in late 2016.
>
> Overall, by Airbnb's count, the company is collecting sales, hotel, or other taxes in 26 states and the District of Columbia (DC) as of March 1, 2017. State-level taxes are collected in 18 of those states. Among this group, some or all local-level taxes are also being collected in every state except Connecticut, which lacks local lodging taxes. In the remaining eight states, Airbnb collects a patchwork of local taxes but no state taxes. In three states—Alaska, Maryland, and New Jersey—Airbnb's tax collection is limited to a single locality (Anchorage, Montgomery County, and Jersey City, respectively). The company has dramatically expanded its tax collection practices in recent years and appears poised to continue its expansion in the months and years ahead. Airbnb recently announced that it will soon begin collecting state lodging taxes in Maine, for instance.

Dan Bucks, a former director of the Montana Department of Revenue and former executive director of the Multistate Tax Commission, wrote a report assessing the tax agreements that Airbnb has struck with state and local governments in different parts of the country. His central finding is that these agreements "[undermine] tax fairness, transparency, and the rule of law" (Bucks 2017).

Bucks examines 12 of the Airbnb tax agreements from across the country that had been made public by mid-2017. He describes them as follows:

> Airbnb devises and presents to tax agencies what are typically ten to twelve-page documents covering back-tax forgiveness, prospective payments, information

> access and multiple other terms that produce, as this report documents, serious negative consequences for society. Airbnb labels these documents as "voluntary collection agreements," which they most assuredly are not. These Airbnb-drafted documents do not guarantee the proper collection of taxes due. They block tax agencies from verifying the accuracy of Airbnb payments. Airbnb may be seeking to superficially to liken these documents to the high quality "voluntary disclosure agreements" that states use to bring non-compliant taxpayers into full conformity with the law. However, these documents profoundly undermine sound tax administration and the rule of law. For these and other reasons detailed below, we will not use Airbnb's misleading label for these documents but will refer to them objectively as "Airbnb agreements." (Bucks 2017)

The most specific criticism Bucks makes is that these agreements have largely been kept secret from the public, in clear contrast to other "voluntary disclosure agreements." This secrecy, combined with agreements to "cede substantial control of the payment and audit processes to Airbnb," make it impossible for tax authorities to ensure proper payment of lodging taxes. Bucks also argues that these agreements between Airbnb and state and local governments provide large benefits to third parties (Airbnb hosts) who are not signatories and are not obligated to provide anything in exchange for these benefits.

In 2016, an analysis from AlltheRooms.com forecast that Airbnb's failure to ensure the full payment of lodging taxes was on track to cost subnational governments a combined $440 million in revenue unless policymakers moved to guarantee proper payment. Of the total, $110 million in lost revenue was for New York City alone. In October 2016, shortly after the AlltheRooms.com analysis was released, New York City passed restrictions on Airbnb advertisements for rentals of less than 30 days when an owner is not present. While these restrictions may have stemmed the loss of revenue relative to the AlltheRooms.com projection, the analysis that predated the restrictions highlight how the unregulated expansion of Airbnb, and its cannibalization of traditional hotel business market share, could still have large fiscal implications for New York and other cities.

Finally, even if Airbnb were to fully comply with the local jurisdiction's tax system on lodgings and pay the same tax rate per dollar earned as traditional hotels, there likely would still be some small fiscal losses stemming from Airbnb's expansion. The primary appeal of Airbnb to most travelers is lower-price accommodations, so even if the same tax rate were paid on Airbnb rentals as is paid on hotel rooms, the lower Airbnb prices would lead to less tax revenue accruing to local governments.

Potential cost three: Externalities inflicted on neighbors

When owners do not reside in their residential property, this can lead to externalities imposed on the property's neighbors. If absentee owners, for example, do not face the cost of noise or stress on the neighborhood's infrastructure (capacity for garbage pickup, for example), then they will have less incentive to make sure that their renters are respectful of neighbors or to prevent an excessive number of people from occupying their

property.

These externalities could be worse when the renters in question are short term. Long-term renters really do have some incentive to care about the neighborhood's long-run comity and infrastructure, whereas short-term renters may have little to no such incentive. Further, some Airbnb hosts are renters themselves who are subletting a long-term rental property to short-term travelers, which may further shield the ultimate property owners from bearing the costs faced by immediate neighbors. In cities where the spread of Airbnb has become a political issue, hundreds (if not thousands) of complaints have been made in this regard.[12]

The potential for such externalities has been broadly recognized for a long time and was a consideration leading to the prevalence of zoning laws that ban short-term travel accommodations in residential neighborhoods. There is a reason, for example, why Times Square in New York City is a cluster of hotels while the Upper East Side is largely a less noisy cluster of residential dwellings. There is of course no reason why such past zoning decisions need to be completely sacrosanct and never changed, but these decisions were made for a reason, and changes to them should be subject to democratic debate.

While researchers have often noted the possibility that Airbnb may impose externalities on the communities surrounding Airbnb units, we know of no empirical estimates of these externalities. If these externalities were powerful enough in degrading the desirability of neighborhoods, they could in theory lead to reduced rents and home prices. From the evidence of the previous section, we know that Airbnb adoption in neighborhoods has actually boosted rental and home prices. But this price boost doesn't mean these externalities don't exist—it simply means that price-depressing externalities are offset by the supply effect of moving properties out of the long-term rental market.

Miller (2016) makes an interesting (if likely too abstract) policy proposal for dealing with the externalities associated with home rental via Airbnb. He proposes creating a market in "transferable sharing rights," in which, for example, each resident of a neighborhood would be given the right to rent out one housing unit for one night. Most residents in a neighborhood won't want to rent out their home. But those who do want to rent out units using Airbnb would want far more than the right to rent out these properties for just one night. To obtain the right to rent out their properties for more nights, they would need to purchase permits from their neighbors. The price it takes to obtain these permits would provide a good indicator of the true costs of the externalities imposed by Airbnb. A city that experimented with these tradeable sharing rights could provide very useful information.

Potential cost four: Job quantity and quality could suffer

We have noted already that when Airbnb enters and expands in a city, it shifts traveler business from hotels to Airbnb, leading to downward price pressure for hotels. This shift from traditional hotels to Airbnb properties also implies either a shift in jobs or a reduction

in jobs. As an example, take hotel cleaning workers. As more visitors to a city pick Airbnb units over traditional hotel accommodations, the need for cleaning doesn't go away. Instead, it is either foisted on Airbnb proprietors, done by third-party cleaning services, or left unmet and thus implicitly imposing costs on both travelers and the surrounding neighborhood (think of improperly disposed-of trash).

Given that much of the growth of Airbnb in recent years has been driven by hosts with multiple properties (which, when in a single location, are in effect mini hotels), it is not surprising to see an emergence of cleaning services specifically serving Airbnb hosts.[13] These new cleaning services may be less likely to offer decent wages relative to traditional travel lodging; it may also be more difficult for workers to unionize in this context. For example, in the 10 U.S. cities with a particularly large Airbnb presence (including New York City, Los Angeles, and Chicago), combined unionization rates for maids and cleaners in the hotel industry are nearly double the unionization rates of maids and cleaners in other industries in the economy.[14]

In some sense, the shift in cleaning jobs from traditional hotels to cleaning services for Airbnb hosts is likely analogous in its economic effects to what happens when traditional hotels outsource their own cleaning staffs. Dube and Kaplan (2010) demonstrate large negative wage effects stemming from this type of domestic outsourcing for janitors and security guards. Their findings are reinforced by recent analysis of the German labor market by Goldschmidt and Schmieder (2017), who find similar large negative effects of domestic outsourcing on a range of occupations, including cleaners. While these studies do not directly examine the effect of substituting in-house hotel cleaning jobs for Airbnb cleaning jobs, they both track the effect of "fissuring" between the entity that uses and pays for the service and the entity that manages the service providers. This fissuring has been a key and troubling feature of the American labor market in recent decades, and it is hard to see how the substitution of Airbnb for traditional hotels does not potentially constitute another layer of this fissuring.[15]

This potential for Airbnb to degrade the quality of cleaning jobs is recognized even by the company itself: Airbnb offers hosts the opportunity to advertise that they have taken the "living wage pledge" by committing to pay a living wage to the cleaners and servicers of their properties. It is not clear how commitment to this pledge is (or can be) enforced, however.

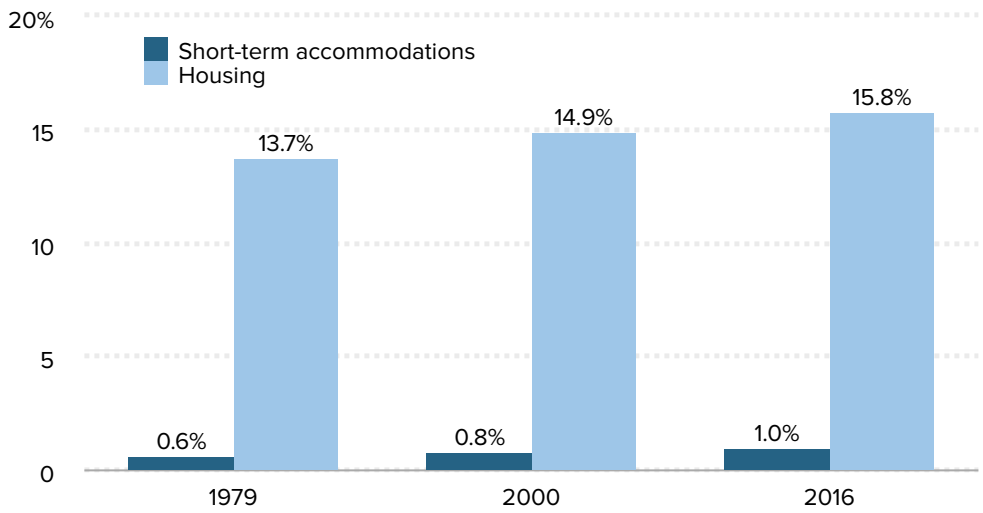
Conclusion: Airbnb should have to play by the same rules as other lodging providers

The current policy debates sparked by the rise of Airbnb have largely concerned tax collections and the emergence of "mini hotels" in residential neighborhoods. At its inception, Airbnb advertised itself as a way for homeowners (or long-term renters) to rent out a room in their primary residence, or as a way for people to rent out their dwellings for

Figure E

Housing costs matter much more to household budgets than short-term lodging costs

Shares of average household personal consumption expenditures devoted to housing vs. short-term travel accommodations, 1979, 2000, and 2016



Note: The housing price index includes both long-term rentals as well as imputed rents for owner-occupied housing.

Source: Author's analysis of Bureau of Economic Analysis National Income and Product Accounts (NIPA) Table 2.5.5

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short periods while they themselves are traveling. However, in recent years Airbnb listings and revenues have become dominated by "multi-unit" renters—absentee property owners with multiple dwellings who are essentially running small-scale lodging companies on an ongoing basis.

This evolution of Airbnb into a parallel hotel industry raises questions about the preferential treatment afforded to this rental company. These questions include, "Why isn't Airbnb required to ensure that lodging taxes are collected, as traditional hotels are?" And, "Why is Airbnb allowed to offer short-term rentals in residential neighborhoods that are not zoned for these uses, while traditional hotels are not allowed in these same neighborhoods?"

While there are plenty of other considerations, the spread of Airbnb seems at its core to be a shift of potential housing supply from the long-term residential housing market to the market for short-term accommodations. This shift of supply can lower prices for travelers but raise housing prices for long-term residents. This seems like a bad trade-off, simply based on the share of long-term housing expenses versus short-term travel expenses in average family budgets. **Figure E** presents the share of total personal consumption expenditures accounted for by housing and by short-term travel accommodations. As the figure shows, housing costs eat up far more of the average household's budget, and rising housing prices mean that long-term housing has grown more as a share of family budgets

than short-term travel accommodations.

This rising cost of housing has become a major economic stress for many American households. Anything that threatens to exacerbate this stress should face close scrutiny. A reasonable reading of the available evidence suggests that the costs imposed on renters' budgets by Airbnb expansion substantially exceed the benefits to travelers. It is far from clear that any other benefits stemming from the expansion of Airbnb could swamp the costs it imposes on renters' budgets.

There may be plenty wrong with the status quo in cities' zoning decisions. But the proper way to improve local zoning laws is not to simply let well-funded corporations ignore the status quo and do what they want. As this report shows, there is little evidence that the net benefit of accelerated Airbnb expansion is large enough to justify overturning previous considerations that led to the regulatory status quo—in fact, the costs of further Airbnb expansion seem likely to be at least as large, if not larger, than the benefits.

About the author

Josh Bivens joined the Economic Policy Institute in 2002 and is currently EPI's director of research. His primary areas of research include macroeconomics, social insurance, and globalization. He has authored or co-authored three books (including *The State of Working America, 12th Edition*) while working at EPI, has edited another, and has written numerous research papers, including for academic journals. He appears often in media outlets to offer economic commentary and has testified several times before the U.S. Congress. He earned his Ph.D. from The New School for Social Research.

Appendix Table 1

Distribution of housing wealth (primary and nonprimary), by household characteristics

	1989	1998	2007	2016	1989–2016 change
Primary residence					
Bottom 50 percent	9.8%	14.3%	12.7%	10.4%	0.7%
Bottom 80 percent	45.4%	47.5%	44.0%	40.0%	-5.4%
Top 20 percent	54.6%	52.5%	56.0%	60.0%	5.4%
80th–90th percentile	19.9%	17.9%	17.5%	18.6%	-1.3%
90th–95th percentile	12.6%	11.6%	11.0%	13.9%	1.3%
96th–99th percentile	15.6%	15.0%	18.2%	16.8%	1.2%
Top 1 percent	6.5%	8.0%	9.3%	10.7%	4.3%
Nonprimary residential property					
Bottom 50 percent	2.6%	4.3%	2.2%	1.6%	-1.0%
Bottom 80 percent	16.8%	18.1%	13.9%	9.9%	-6.9%
Top 20 percent	83.2%	81.9%	86.1%	90.1%	6.9%
80th–90th percentile	15.2%	16.8%	10.7%	12.6%	-2.7%
90th–95th percentile	20.6%	15.5%	13.9%	14.9%	-5.7%
96th–99th percentile	28.7%	28.7%	34.0%	29.6%	0.9%
Top 1 percent	18.6%	21.0%	27.5%	32.9%	14.3%
Primary residence					
White, non-Hispanic	86.4%	87.5%	82.6%	80.6%	-5.9%
Black, non-Hispanic	4.9%	5.0%	6.2%	6.5%	1.6%
Hispanic, any race	4.1%	3.7%	6.1%	6.0%	2.0%
Other	4.6%	3.7%	5.1%	6.9%	2.3%
Nonprimary residential property					
White, non-Hispanic	87.3%	89.5%	84.2%	86.2%	-1.1%
Black, non-Hispanic	4.3%	4.1%	4.1%	5.0%	0.7%
Hispanic, any race	3.1%	3.4%	6.7%	3.6%	0.5%
Other	5.3%	3.0%	5.0%	5.2%	-0.1%

Note: Per the Survey of Consumer Finances definitions, primary housing wealth is the total value of the primary residence of a household. Nonprimary housing wealth includes the value of all of other residential real estate owned by the household, including one-to-four family structures, timeshares, and vacation homes.

Source: Author's analysis of microdata from the Federal Reserve Board Survey of Consumer Finances (2016)

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Endnotes

1. According to a recent report, "a significant—and rapidly growing—portion of Airbnb's revenue in major U.S. cities is driven by commercial operators who rent out more than one residential property to short-term visitors" (CBRE 2017).

2. Horton and Zeckhauser (2016) provide a deep dive into the economics of internet-based service firms. Slee (2017) provides an excellent popularization of some of the economic issues surrounding IBSFs from a deeply critical perspective.

3. The most obvious benefit to living in housing that one owns is the tax treatment of mortgage interest payments on owner-occupied property, which can be deducted from federal taxes. Another benefit is that the implicit rental income earned by owner-occupiers is not taxed (the money that owner-occupiers are saving by not having to pay rent elsewhere could be viewed as implicit rental income).

4. Wachsmuth et al. (2018), for example, find that just under half of Airbnb listings in New York City had likely taken illegal reservations.

5. "Arrivals" is a term referring to each stay in a unit, regardless of length of stay.

6. For example, Molla (2017) highlights more recent forecasts for 2017 indicating a large slowdown in U.S. Airbnb expansion.

7. The range of 2 to 4 percent represents the range of findings across 2015, 2016, and 2017. The value was 4 percent in 2015, 2 percent in 2016, and 3 percent in 2017.

8. The arithmetic on this is relatively straightforward. The NERA 2017 study asserts that Airbnb supports $14 billion in spending and 130,000 jobs in the United States. This implies each $107,690 supports a job. Say that half of this spending is the direct cost of accommodations and that it represents a pure expenditure shift away from traditional hotels. Assume further that traditional hotels are 5 percent more labor-intensive—so each traditional hotel job is supported by $102,300 in spending (5 percent less than the ratio identified by Airbnb). This shift from traditional hotels to Airbnb hence reduces employment by 3,400 jobs for each $7 billion in spending. Even if overall spending were to rise by 2 percent due to Airbnb's expansion, this would increase employment by only roughly 2,600 jobs. The key insight here is that once one allows Airbnb to substitute for other forms of accommodation, the link between output and employment might change significantly.

9. Airbnb itself has commissioned and reported on a number of studies claiming that the share of guests who would not have taken the trip absent Airbnb is as high as 30 percent. Even this number is far larger than the independent assessments of Guttentag (2016) and Morgan Stanley Research (2017), but it does highlight just how outlandish the NERA assumption on this is.

10. In a review of housing markets, Albouy, Ehrlich, and Liu (2016) note that "Housing demand is income and price inelastic."

11. The geographic unit implicitly being examined by Sheppard and Udell (2018) is not intuitive. Their observation is an individual home sale. They then track Airbnb listings within five different radii of the sale: 150, 300, 500, 1,000, and 2,000 meters. They interact the number of Airbnb listings with categorical variables for each of the five "buffer zones" defined by the radii and use this as an explanatory variable predicting sales prices.

12. See Office of New York State Attorney General 2014.

13. Lawler (2014) notes that Airbnb was testing out dedicated cleaning services for its hosts as early as 2014.

14. Unionization rates derive from the author's analysis of data pooled from 2008–2017 from the Outgoing Rotation Groups (ORG) of the Current Population Survey (CPS). Code and results are available upon request. The 10 cities are Boston, Chicago, Los Angeles, Las Vegas, Miami, New York City, San Diego, San Francisco, Seattle, and Washington, D.C. In these 10 cities, the unionization rate for maids and cleaners was 23.2 percent in the traveler accommodation industry, but 12.1 percent in all other industries.

15. See Weil 2017 for an overview of labor market fissuring.

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Errata

This report was updated March 26, 2019, to correct errors in the “Bottom 50 percent” rows in Appendix Table 1. These rows had incorrectly shown the numbers for the top 50 percent instead of for the bottom 50 percent.

RECEIVED
Oct 29 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

Subject: A Rhetorical Question

From: Rosemary Sampson
Sent: Tuesday, October 29, 2019 5:05:08 AM
To: Karen Farrer <kfarrer@malibucity.org>; Skylar Peak <speak@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Rick Mullen <rmullen@malibucity.org>
Subject: A Rhetorical Question

Honorable Council Members
I admire your tenacity in your capacities as City Council Members. I want to thank each and everyone of you for taking on this thankless job.
Ms. Farrer,
Do you think that an Airbnb guest would take your child to Rob LeMonds swim class or coach her team?
Mr. Peak
Do you think that an AirBnB guest would raise money through the Optimiist Club in order to give a scholarship to your sister or contribute to the water polo fund so you could play hole set? Or for that matter support little league so that your sisters little league teams so that they could play ball?
Mr Mullen
Do you think that an AirBNB guest would hellp with our Boy Scout Troop? Do you think they would donate to the Scout program" Take them on Hikes? Do you think that they would donate money so that a promising young swimmer cold attend a high level swim meet that he could of otherwise not attended?
Mr Pierson
Do you think that they would support the girl scout troops, singers, dancers, scholars, nature studiers that actual neighbors do? How about helping to fill sandbags or with the school orchestra, bands, choirs?
Mr. Wagner
The so-called financial study was simply for the benefit of a foregone conclusion. Somehow the city has succeeded starting 12 years post conflagration without turning all of it into a motel zone. Let hotels be hotels. Let homes bo homes. They city doesn't need this bogus source of revenue. nor does it need the enormous cost, for which no accounting has yet been made by the so-called analysts.
Put commercial entities where they belong in commercially zoned areas.
There is no need to do anything but enforce the zoning laws in place and they are enforcable. There is no legal need to amend the LCP. Just enforce it as it is. The Coffers will increase and stabalize. There should be no alarms that the city's general fund for emergencies dipped and needs to be replenished. We had an emergency. Get over it.

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Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

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Heather Glaser

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Subject: Short-Term Rentals, Agenda Item No.

From: Rebecca Thompson <rthompson@gaineslaw.com>
Sent: Friday, October 25, 2019 4:58 PM
To: Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>
Cc: Fred Gaines <fgaines@gaineslaw.com>
Subject: Short-Term Rentals, Agenda Item No.

Dear Mayor Farrer and Mayor Pro Tem Pierson:

Our firm is representing Sue Peck regarding the proposed Short Term Rental Ordinance. Attached is a copy of the letter she submitted prior to the last hearing before City Council, which predated your election to the council. We believe that, combined with appropriate renter rules and landlord controls, a limited number of short-term rentals in multi-family buildings would benefit the Malibu community, including tenants in long-term leases. We appreciate your consideration.

Rebecca A. Thompson, Esq.

GAINES & STACEY LLP

Gaines & Stacey LLP
16633 Ventura Blvd., Suite 1220
Encino, CA 91436
Telephone - 818-933-0200 ext. 1205
Fax - 818-933-0222

rthompson@gaineslaw.com | website | bio

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Sue Peck
P.O. Box 1098
Malibu, CA 90265

June 26, 2018

Hon. Rick Mullen, Mayor
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Re: **Proposed Short Term Rental Ordinance**
Zoning Text Amendment No. 17-002
City Council Hearing Date – July 9, 2018

Dear Mayor Mullen and Honorable City Council Members:

My name is Sue Peck. I have lived in Malibu as a full-time resident since 1969. When I first moved to Malibu, I rented an apartment. After a few years, I was able to purchase a home. Since then I have purchased additional properties that I continue to own, rent and manage. For nearly a decade I have offered a small percentage of apartment units for short term stays. I ask that you include short term rentals of multi-family units within the proposed Short-Term Rental Ordinance.

As a long-term resident in Malibu, I care about the character of this City. I understand the concerns raised about party houses and entire apartment buildings used as make-shift hotels. I am opposed to these types of abuses and support the City's efforts to put a stop to it. That said, I believe that the complete ban of short term rentals in multi-family units is a "throw the baby out with the bath water" approach that ignores the benefits of a properly run short term rental program.

My short-term rentals are carefully selected. The tenants are properly vetted, we have a written contract, the rules are both explained and enforced. There is no noise, no parties, and our tenants are all courteous to each other. We provide onsite parking and have staff available to handle any issue that arises 24 hours a day.

There is a real benefit to my long-term tenants too. The rental fees from the short-term stays help pay for building maintenance and other expenses that would otherwise result in higher rents for long-term tenants.

Before the Planning Commission meeting in May, I met with several of the Planning Commissioners at my rental property. They toured some of the units and met some of my long-term tenants. My tenants were enthusiastic about the short-term tenants they have met. The Commissioners all indicated that my short-term rentals did not pose a problem.

I am proposing that the proposed short-term rental ordinance be amended to regulate rather than ban short-term residential rental properties. Real concerns like parking, noise and meeting safety requirements can and should be addressed in the ordinance.

I propose that the owners of short-term rentals register with the City. Owners would only be allowed to register up to one-third of the units in a multi-family apartment building. With a minority of units offered for short-term rentals, Malibu's community character remains the same and the rental fees may be used for building maintenance and other expenses to reduce rents for long-term tenants.

I believe strongly that the property owners should have the primary obligation to comply with this ordinance. That obligation would include ensuring that a manager with access to the dwelling unit is available 24/7 to respond to any issues at the rental unit, as well as informing the short-term tenant of the City's rules and requiring the short-term renter to acknowledge in writing that he or she is responsible for complying with the rules applying to short-term rentals.

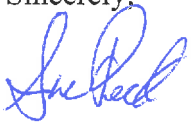
I require that our tenants park on-site and adhere to many restrictions, especially about noise. I would not object to these stricter requirements being included in the ordinance.

I believe that short-terms rentals in multi-family buildings are an asset to the City. I have successfully paired long-term and short-term rentals in my multi-family building year-round. I have paid over $500,000 in TOT taxes. I have a long and successful track record -- without any complaints -- in nearly a decade of operations.

This is a good model and I urge the City to adopt an STR ordinance allowing multi-family short-term rentals with the guidelines I have suggested.

I appreciate your time and thank you for your consideration.

Sincerely,

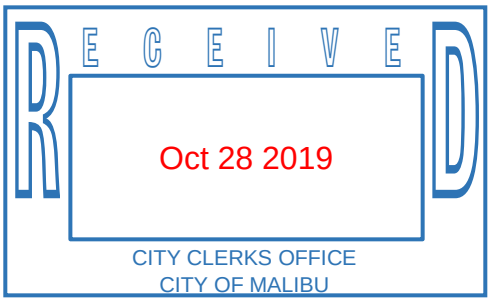


Sue Peck

cc: Heather Glaser, City Clerk
Trevor Rusin, Assistant City Attorney
Reva Feldman

Heather Glaser

From: Rahmi U Zorlu
Sent: Sunday, October 27, 2019 10:41 AM
To: cityclerk
Subject: STOP REGULATING Short Term Rental



Dear City Chamber Members,

It is very unfair to residents of Malibu to even spend time to discuss banning short-term rentals where we have bigger issues like fire. We should spend more time on how to prepare and protect ourselves and families from these fires.

Even though we are not out of the woods yet, we just dodged the bullet from Pacific Palisades fire. I don't even want to talk about last year's fire in which we miserably failed to protect residents of Malibu, their homes, businesses, families and memories. Going forward, due to climate change, we will face the force of mother nature more fiercely. As you know, fighting against these fires require more revenue and funding. Short term rental tax might not solve this issue by itself but it certainly helps. According to your study, it will bring size-able revenue of $30M in 10 years. Short term rentals bring necessary and much needed revenue in multiple ways and this study does not include other revenues such as grocery shoppings, dinings, and local activities. If these additional revenues are considered, I think Malibu is going to get way more than $30M in revenue in next 10 years.

I do want you to consider priorities of this community. And I don't think nothing is More important and prior than our safety. I have not heard or face any safety problem due to short term rentals but I heard so many of my community friends losing their place because of fires.

Lets set our priorities and do what is right for Malibu. Unlike LA county, we don't have housing shortage and most of homes here are secondary vacation home to many people in SoCal. Unlike many beach cities, east and north of us is full of dead vegetation, fuel for fire.

Moreover, Malibu is not just a community for RICH, whose pressuring everybody to regulate short term rental. Many people in the country cannot afford to buy a place in Malibu and there is not enough accommodation (hotel and motel) to support demand. These beaches belong to people and should be enjoyed by the people, not only rich.

Regulating short term rental will not bring us anything good in near future and should not be our priority until we are fully prepared against fires. WE SHOULD IMMEDIATELY STOP DISCUSSING SHORT TERM RENTAL REGULATIONS.

Sincerely,
Rahmi

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Kelsey Pettijohn

Subject: short term rentals

RECEIVED
Oct 21 2019
CITY CLERKS OFFICE
CITY OF MALIBU

From: Scott Dittrich
Date: October 21, 2019 at 12:37:46 PM PDT
To: Karen Farrer <kfarrer@malibucity.org>
Subject: short term rentals

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

Dear Karen,

Short term rentals help those who need the income to continue to live here without eating Alpo, bring revenue to our businesses and restaurants, and seem to be mandated by Coastal, yet they are impacting our City in ways that are clearly detrimental. Banning them entirely would take away private property rights.

Yet the worst STRs are a nightmare to neighbors and run by absentee owners and off-site corporations. But even those well run are impacting us. By eliminating affordable rental houses and apartments our schools have fewer kids and renters who once made up part of our community, who were familiar with fires and floods, who surfed here and hiked our trails, and were a part of our City - sometimes even saving enough to buy in Malibu, no longer can live here.

We need a well crafted balance. The staff report from last summer did not do this, and the recent report of the financial impact (take today's STR taxes, multiply by 5 and add the CPI to get a five year total, which was a total waste of $45,000.)

I suggest that the Council take this issue away from staff, and either turn it over to a subcommittee, a citizens committee, or just adopt the regulations of Santa Monica and Laguna Beach, the former of which has passed legal muster up through an appellant court. Laguna requires registration to advertise STRs, which seems a very inexpensive enforcement mechanism.

This compromise should include the following:

1.Prevent advertising of STR's unless they are registered IN PERSON at the City, using both a driver's license and property tax bill as proof they live at the address.

2. One STR per property and the owner must live on site

3. No trailers, yerts, barns, tents etc.

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4. Apartments limited to 10% of units (SM uses 20%)

5. Hire two enforcement officers who will work nights on the weekends, to be paid by STR fees and for those who violate their neighbors' *quiet enjoyment* of their homes, and a mechanism to ban those in violation.

If the City receives the revenue from all STRs we should not see a decrease in revenue. Right now, it seems there are many STRs for which we do not receive the TOT tax, so even if we limit STRs, we should approximate the revenue we now receive from them. We might want to phase out STRs so we dump too many units on the market at one time.

thanks

Scott Dittrich

Ps. Full disclosure: I have done an AirB&B in my guest house between long term tenants, which I have now.

Kelsey Pettijohn

Subject: Court Upholds Denial of Short-Term Rentals

RECEIVED
Oct 24 2019
CITY CLERKS OFFICE
CITY OF MALIBU

From: S. Manners / Malibu Assoc of REALTORS
Sent: Wednesday, October 23, 2019 12:54 PM
To: Karen Farrer; Mikke Pierson; Mikke Pierson <mpierson@malibucity.org>
Cc: Paul Grisanti; bill bowling
Subject: Court Upholds Denial of Short-Term Rentals

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I thought you might find this interesting.

Court Upholds Denial of Short-Term Rentals

Zoning Board's Decision Denying Short-Term Rentals Upheld

October 23, 2019

Short-Term Rental Restrictions, Zoning, Vacation, Resort, and Second Homes

Takeaways:

- Residential zoning ordinance's definition of single-family use or family may vary by state.
- Check state and local laws to ensure desired use of the property is not restricted.
- Consult counsel to ensure use of a property is consistent state and local laws.

In *Slice of Life, LLC v. Hamilton Township Zoning Hearing Board*, the Pennsylvania Supreme Court upheld the ruling that a local zoning ordinance clearly and unambiguously excluded purely transient uses of property.

The issue before the court was whether the Hamilton Township zoning ordinance in question permits the purely transient use of properties located within the zoning district. Here, the property at issue was a three-bedroom house located in the Poconos, and owned by Appellees, Slice of Life, LLC, a Pennsylvania limited liability company that was organized and existing under Pennsylvania law and with a sole member, Val Kleyman. Mr. Kleyman lived in Brooklyn, New York, and never lived in the Poconos house or considered it his residence. Instead, the property was purchased as an investment property, intended to be used exclusively for short-term rentals. Kleyman advertised the property online through companies specializing in internet-based short-term rentals, allowing a minimum of two nights and a maximum of one week rentals of the Pocono home by various groups.

The relevant Hamilton Township zoning ordinance included a permitted use for single family residences, and included as their permitted uses were "[s]ingle family detached dwellings [and accessory uses and essential services." The Appellees were issued an enforcement citation, citing Appellees' use of the house "as [a] Hotel

CC: Council; CM; CA ;_____; Ref. Binder; Original to 10/28/19 Agenda File

and/or other types of transient lodging, Rental of Single Family Residential Dwelling for transient tenancies", as a violation of the permitted uses of the residence under the Hamilton Township zoning ordinance. Appellees appealed to the Zoning Board, which was denied, and the Zoning Board's decision was later upheld by the trial court. The Appellate Court, however, reversed the Zoning Board's decision based upon its assessment that "family" was not defined in the ordinance and that the individual signing the short-term rental lease for the property was the "family" for ordinance purposes, and that the other individuals in the large group were "guests" of the "family."

The Supreme Court disagreed. While the Supreme Court recognized a property owner's constitutionally protected right to the enjoyment of their property, that right is limited by zoning ordinances, which are aimed at "the protection of the public health, safety, morality and welfare." The court further noted that a municipality's police power is well established, and includes the right to establish residential zoning ordinances to protect residential areas from factors that compromise the residential character of a neighborhood, such as increased noise and traffic. The Pennsylvania Supreme Court ruled the use of the Pocono house was not by a "family" because the group did not function as a family as defined by the Ordinance, and the Court found no ambiguity in zoning ordinance's use of the phrase "single housekeeping unit, which "is at the heart of the definition of 'family'". Therefore, in upholding the Zoning Board's decision, the Pennsylvania Supreme Court held that the regular rental of a property for two nights to a week was not use as a "single-family dwelling", and was therefore not permitted under the zoning ordinance.

Slice of Life, LLC and Val Kleyman v. Hamilton Township Zoning Hearing Board and Hamilton Township, 207 A.3d 886 (April 26, 2019)

Read the full case

Susan Manners
Executive Director
Malibu Association of REALTORS®

23805 Stuart Ranch Road, Suite 140, Malibu CA 90265
Phone: 310.456.5566 Fax: 310.456.1809
SManners@MalibuREALTORS.org www.maliburealtors.org

OFFICE HOURS: 9:30 am - 4:30 pm Mon - Thurs. Closed Fridays

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The mission of the Malibu Association of REALTORS® is to act as advocate for the profession, and to educate, inform, and serve its members and the public.

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Kelsey Pettijohn

Subject: Malibu Short-term Rentals - City Council Meeting October 28, 2019

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

RECEIVED
Oct 21 2019
CITY CLERKS OFFICE
CITY OF MALIBU

From: Steve Uhring
Sent: Saturday, October 19, 2019 8:34 PM
To: Karen Farrer; Rick Mullen <rmullen@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Jefferson Wagner; Skylar Peak <speak@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>
Cc: John & Robby Mazza; Richard Lawrence; Michael Lustig
Subject: Fwd: Malibu Short-term Rentals - City Council Meeting October 28, 2019

Community perception is that you're manipulating the start time to reduce citizen participation.
That is not good at any time, but especially on an issue as important as this one.

steveU

---------- Forwarded message ---------
From: **Richard Lawrence**
Date: Sat, Oct 19, 2019 at 7:59 PM
Subject: Re: Malibu Short-term Rentals - City Council Meeting October 28, 2019
To: Reva Feldman <rfeldman@malibucity.org>
Cc: Steve Uhring, Karen Farrer , John & Robby Mazza, Michael Lustig

Reva & City council,Unless this is a ploy to keep attendance low as we need to let a large number of people know what time the meeting starts. 4 PM WILL GUARANTEE THAT THE CITIZENS OF MALIBU WILL NOT BE ABLE TO EXPRESS THEIR VIEWS ON THE REVENUE BASED SOLUTION TO BALANCING THE BUDGET. LETS START GOVERNING IN THE BEST INTERESTS OF THE POPULACE. DESTROYING THE SPIRIT OF MALIBU IS A TOTALLY DESTRUCTIVE POLICY. THE BUDGET SHOULD BE APPROPRIATE TO THE REVENUE GENERATED BY THE TAXATION OF THE CITIZENS, NOT A DESTRUCTIVE METHOD OF ACCEPTING REVENUE FROM A PRACTICE THAT NEGATIVELY DESTROYS OUR NEIGHBORHOODS.

Richard Lawrence
President, Malibu Township Council

On Oct 19, 2019, at 7:07 PM, Reva Feldman <rfeldman@malibucity.org> wrote:

It starts at 4 pm.

Reva Feldman
City Manager
City of Malibu

CC: Council; CM; CA ;_____; Ref. Binder; Original to 10/28/19_____ Agenda File

On Oct 19, 2019, at 8:59 PM, Steve Uhring wrote:

Any chance we could get some clarity on the October 28th meeting dealing with STR.

Below is the email from Patricia noting the meeting starts at 6:30.

The link below is to the city website which tells another story.

Both can not be correct.

Thanks

steveU

We should check. This is what is on the city web site fight now

https://www.malibucity.org/AgendaCenter/ViewFile/Item/3965?fileID=9667

From: Patricia Salazar <psalazar@malibucity.org>
Date: October 18, 2019 at 6:45:56 PM PDT
Subject: Malibu Short-term Rentals - City Council Meeting October 28, 2019

Malibu City Council Public Meeting - October 28, 2019
Malibu Short-Term Rentals

The City of Malibu City Council will consider short-term rentals at its next meeting:

Monday, October 28, 2019
6:30 PM
Malibu City Hall
23825 Stuart Ranch Road, Malibu

As part of the City Council's effort to consider regulating short-term rentals, the City Council will consider short-term rentals, specifically the following topics: 1) the financial analysis on the implications and potential impacts on a ban on short-term rentals; 2) options and procedures for regulating and banning short-term rentals; 3) whether an amendment to the Local Coastal Program is necessary for a short-term rental ban; 4) approaches of other coastal cities and associated litigation in those cities; and 5) provide direction to staff on a short-term rental ordinance.

Click here to view the meeting agenda and staff report (see Item 5A).

If you are unable to attend the meeting, you may watch the meeting LIVE online at www.malibucity.org/videoarchive.

For questions and to submit comments, please contact Justine Kendall, Assistant Planner, at jkendall@malibucity.org or (310) 456-2489, ext. 301.

For more Information, visit the City's website at
https://www.malibucity.org/str

Patricia Salazar | Senior Administrative Analyst | Planning Department
23825 Stuart Ranch Road, Malibu CA, 90265
(310) 456-2489 extension 245

Connect with the City of Malibu!

Heather Glaser

Subject: Short term rentals

From: Steve Uhring
Sent: Friday, October 25, 2019 11:54 AM
To: Justine Kendall <jkendall@malibucity.org>
Subject: Short term rentals

The short term rental meeting on Monday should be quite a show.

One of the things many residents are urging the City Council to do is to adopt the STR ordinance recently adopted in Santa Monica. It is solid, has gone through the courts and can be effectively implemented.

Can you make sure that the actual language for the SM ordinance is included in the record on Monday night. If the council decides to go in that directing having it included in the record will simplify the process.

Here is a link to the ordinance https://www.smgov.net/uploadedFiles/Departments/PCD/Permits/Home%20share%20O-2616.pdf

Thanks in advance

steveU

DocuSign Envelope ID: 467A65C9-D9FC-4927-B12C-F062C5608568

City Council Meeting: September 24, 2019 Santa Monica, California

ORDINANCE NUMBER 2616 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING AND REVISING CHAPTER 6.20 OF THE SANTA MONICA MUNICIPAL CODE TO STRENGTHEN REGULATION OF HOME-SHARING AND VACATION RENTALS

WHEREAS, a central and significant goal for the City is preservation of its housing stock and preserving the quality and character of residential neighborhoods; and

WHEREAS, Santa Monica places a high value on cohesive and active residential neighborhoods and the diverse population that resides therein; and

WHEREAS, the City must preserve its available housing stock and the character and charm that result, in part, from cultural, ethnic, and economic diversity of its resident population, as a key factor in economic growth; and

WHEREAS, Santa Monica's natural beauty, its charming residential communities, its vibrant commercial quarters and its world-class amenities have drawn visitors from around the United States and around the world; and

WHEREAS, there is within the City a diverse array of short-term rentals for visitors, including, hotels, motels, bed and breakfasts, vacation rentals and home sharing, not all of which are lawful; and

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WHEREAS, operations of vacation rentals, where residents rent entire units to visitors and are not present during the visitors' stays, frequently disrupt the quietude and residential character of the neighborhoods and adversely impact the community; and

WHEREAS, home-sharing does not create the same adverse impacts as unsupervised vacation rentals when the home-shares are hosted by the owner or a long-term resident who lives on site and is present to introduce guests to the City's neighborhoods and regulate guests' behavior; and

WHEREAS, while the City recognizes that home-sharing activities can be conducted in harmony with surrounding uses, those activities must be regulated to ensure that the home-sharing activities do not threaten or harm the public health, safety, or general welfare; and

WHEREAS, on May 12, 2015, the City Council adopted Ordinance Number 2484, which added Chapter 6.20 to the Santa Monica Municipal Code and thereby preserved the City's prohibition on vacation rentals, but authorized "home-sharing," whereby residents host visitors in their homes for short periods of stay, for compensation, while the resident host remains present throughout the visitors' stay; and

WHEREAS, on January 24, 2017, the City Council adopted Ordinance Number 2535CCS, which amended Chapter 6.20 to clarify its application to hosting platforms; and

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WHEREAS, on June 27, 2017, the City Council adopted Ordinance Number 2547CCS, which further amended Chapter 6.20 to address the use of accessory dwelling units that received their building permits after March 31, 2017 as home-shares; and

WHEREAS, in the time since Chapter 6.20 was first added, the City has issued over 450 business licenses authorizing home-sharing; and

WHEREAS, the City is investigating approximately 30% of the licensed home-share hosts as operating vacation rental businesses under the guise of home-sharing; and

WHEREAS, the City strives to strike a balance between preserving the City's available housing stock, protecting the residential character of neighborhoods, and preventing home-shares from turning into de facto hostels and hotels, while at the same time permitting owners and long-term residents to host guests as part of a home-share; and;

WHEREAS, the costs of regulating and enforcing the requirements of the home-sharing program are significant and should be borne, at least in part, by those benefitting from their participation in the home-sharing program; and

WHEREAS, the City Council now wishes to amend Chapter 6.20 to clarify existing regulations and to implement various public health, safety, and general welfare regulations governing home-sharing.

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NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Santa Monica Municipal Code Chapter 6.20 is hereby amended to read as follows:

6.20.010 Definitions.

For purposes of this Chapter, the following words or phrases shall have the following meanings:

(a) **Bedroom.** Any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

(b) **Booking Transaction.** Any reservation or payment service provided by a person who facilitates a home-sharing or vacation rental transaction between a prospective visitor and a host.

(c) **Dwelling Unit.** One or more rooms designed, occupied, or intended for occupancy as separate living quarters, with full cooking, sleeping, and bathroom facilities for the exclusive use of a single household. A dwelling unit includes a single-family residence, and each unit of an apartment, duplex, or multiple dwelling structure designed as a separate habitation for one or more persons, but does not include units located within City-approved hotels, motels, and bed and breakfasts, as defined in section 9.51.030(B)(15). An accessory dwelling unit, as defined by section 9.31.300, that received its building permit on or after March 31, 2017, constitutes a separate dwelling unit for the purpose of this Chapter.

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(d) **Eligible Resident**. Any natural person who (1) is either (i) a long-term resident of a dwelling unit or (ii) an owner of a dwelling unit and (2) uses that dwelling unit as his or her primary residence.

(e) **Home-Sharing.** Renting for a period of 30 consecutive days or less, one or more bedrooms in a dwelling unit that is the primary residence of the host, while the host lives on-site, in the dwelling unit, throughout the visitors' stay. A dwelling unit rented out for home-sharing is referred to as a "home-share."

(f) **Host.** Any natural person who is an eligible resident of a dwelling unit offered for use as a home-share.

(g) **Hosting Platform.** A person who participates in the home-sharing or vacation rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

(h) **Lives On Site**. Maintains a physical presence in the dwelling unit, including, but not limited to, sleeping overnight, preparing and eating meals, and engaging in other activities in the dwelling unit, of the type typically maintained by a natural person in the dwelling unit in which he or she is an eligible resident.

(i) **Long-Term Resident.** Any natural person who, as of the date a home-share application is submitted pursuant to Section 6.20.021: (1) has occupied the dwelling unit that is the subject of the home-share application as his or her primary residence for at least the prior 12 months; and (2) has either (i) if the natural person is a tenant, subtenant, lessee, or sublessee, a written rental housing agreement for the dwelling unit for a period of 12 months or more after the date the home-share application is submitted

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or (ii) if the natural person is not a tenant, subtenant, lessee, or sublessee, written documentation establishing that the natural person will reside at the dwelling unit for a period of 12 months or more after the date the home-share application is submitted.

(j) **Owner.** Any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

(k) **Person.** Any natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, or organization of any kind.

(l) **Primary Residence.** The usual place of return for housing of an owner or long-term resident as documented by at least two of the following: motor vehicle registration, driver's license, California state identification card, voter registration, income tax return, property tax bill, or a utility bill. A person can only have one primary residence.

(m) **Vacation Rental.** Renting for a period of 30 consecutive days or less any dwelling unit, in whole or in part, for exclusive transient use. Exclusive transient use shall mean that no eligible resident of the dwelling unit lives on-site, in the dwelling unit, throughout any visitor's stay. Rentals of units located within City-approved hotels, motels, and bed and breakfasts shall not be considered vacation rentals.

(n) **Visitor**. A natural person who rents a home-share or vacation rental.

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6.20.020 Home-sharing authorization.

(a) Notwithstanding any provision of this Code to the contrary, home-sharing shall be authorized in the City, provided that the host complies with each of the following requirements:

(1) Obtains and maintains at all times a City home-sharing permit issued pursuant to this Chapter and a business license issued pursuant to Chapter 6.04.

(2) Operates the home-sharing activity in compliance with all permit conditions for home-sharing as set forth in Section 6.20.021 and any regulations promulgated pursuant to this Chapter.

(3) Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 6.68 of this Code.

(4) Takes responsibility for and actively prevents any nuisance activities that may take place as a result of home-sharing activities.

(5) Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.

(6) Does not book or rent to more than two groups of visitors for any given date, whether the visitors within the groups are related to one another or not.

(7) Limits the occupancy of the home-share (including the host, all other eligible residents, and all visitors) to the lesser of (i) 10 persons; (ii) one person per 200 square feet of the dwelling unit; or (iii) two persons (excluding minor children) per bedroom.

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(8) Limits visitors to (i) no more than one vehicle per bedroom rented as part of the home-share or (ii) if the home-share is located in a preferential parking zone, no more than two vehicles that shall be required to use the visitor permits available under Chapter 3.08 of this Code. A visitor's vehicle may be parked on site, to the extent available, or in legal street parking.

(9) Maintains liability insurance to cover home-sharing with minimum limits of not less than $500,000 or conducts each home-sharing transaction through a hosting platform that provides equal or greater coverage.

(10) Complies with Section 6.20.022 governing advertisements of home-shares.

(11) Complies with all applicable laws, including the noise limitations set forth in Chapter 4.12 of this Code, and all health, safety, building, fire protection, and rent control laws.

(12) Complies with all regulations promulgated pursuant to this Chapter.

(b) All hosts and their respective properties, authorized by the City for home-sharing purposes pursuant to this Section, shall be listed on a registry created by the City and updated periodically by the City. The City shall publish the registry, and a copy shall be sent electronically to any person upon request.

(c) If any provision of this Chapter conflicts with any provision of the Zoning Ordinance codified in Article IX of this Code, the terms of this Chapter shall prevail with respect to interpretation and enforcement of this Chapter.

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6.20.021 Home-sharing permit conditions.

(a) **Application required.** To obtain a home-sharing permit for a dwelling unit, a host shall submit an application on a form to be provided by the City and signed by the host under penalty of perjury. The application for the home-sharing permit shall include the following information:

(1) Address of the proposed home-share;

(2) Type of dwelling unit;

(3) Whether the applicant is an owner or long-term resident;

(4) If applicable, proof that the applicant is a long-term resident;

(5) Proof that the proposed home-share is the primary residence of the applicant;

(6) The name and contact information for any other eligible residents of the proposed home-share who will be serving as hosts, together with proof that each identified host is an eligible resident of the proposed home-share;

(7) The square footage of the proposed home-share;

(8) The number of bedrooms in the proposed home-share;

(9) The maximum number of visitors per night, which shall not exceed the maximum permitted in accordance with Section 6.20.020(a)(6);

(10) Proof of insurance;

(11) Certification that the host will comply with all provisions of this Chapter and all regulations promulgated pursuant to this Chapter or be subject to the revocation of his or her home-sharing permit and business license; and

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(12) Any other information required by regulations promulgated pursuant to this Chapter.

(b) **Application Fee.** The initial application and each renewal application for a home-sharing permit shall be accompanied by an application fee to be established by resolution by the City Council.

(c) **Duty to Amend Application.** If there are any material changes to the information submitted on a home-sharing permit application, the host shall submit an amended application on a form to be provided by the City and signed by the host under penalty of perjury within 30 days of any such changes. For the purposes of this Section, any change to the information required to be included in a home-sharing permit application by subsection (a) of this Section shall constitute a material change. Failure to submit an amended home-sharing permit application may result in revocation of the home-sharing permit and business license.

(e) **Term of Permit.** Notwithstanding any provision of this Code to the contrary, any home-sharing permit shall be effective for same period as the term of the host's business license.

(f) **Renewal of Permit.** A host may renew his or her home-sharing permit by submitting a completed permit renewal application on a form to be provided by the City and signed by the host under penalty of perjury. The permit renewal application shall include all of the information required by subsection (a) of this Section.

(g) **No Transfer or Assignment**. A home-sharing permit may not be assigned or transferred to any other person.

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6.20.022 Advertisements for home-sharing.

(a) The host shall include the following information in any advertisement for home-sharing:

(1) The business license number issued by the City;

(2) That the host lives on site and will be present in the home-share throughout the visitor's stay;

(3) The permitted occupancy of the home-share as specified in the home-sharing permit application;

(4) The permitted number of visitor vehicles, in accordance with Section 6.20.020(a)(8);

(5) That the home-share cannot be booked or rented to more than two groups of visitors for any given date, whether the visitors within the groups are related to one another or not; and

(6) Any other information required by regulations promulgated pursuant to this Chapter.

(b) A host is limited to posting no more than two listings for the home-share on each hosting platform or other media outlet. If a host posts a listing for the home-share on multiple hosting platforms or other media outlets, only two listings may be booked for any given date.

(c) No advertisements regarding the availability of a dwelling unit for home-sharing shall be posted in or on any exterior area of the dwelling unit, any exterior area of any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.

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6.20.030 Prohibitions.

(a) No person shall undertake, maintain, authorize, aid, facilitate or advertise any vacation rental or any home-sharing that does not comply with this Chapter. For the purposes of this section only, person does not include a hosting platform.

(b) No host may be the host for more than one home-share.

6.20.050 Hosting platform responsibilities.

(a) Hosting platforms shall be responsible for collecting all applicable TOTs and remitting the same to the City. The hosting platform shall be considered an agent of the host for purposes of TOT collections and remittance responsibilities as set forth in Chapter 6.68 of this Code.

(b) Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each home-sharing and vacation rental listing located in the City, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.

(c) Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry created under Section 6.20.020 subsection (b), at the time the hosting platform receives a fee for the booking transaction.

(d) Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a vacation rental or unregistered home-share, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.

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(e) **Safe Harbor.** A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (a), (b), (c), and (d) above, shall be presumed to be in compliance with this Chapter, except that the hosting platform remains responsible for compliance with the administrative subpoena provisions of this Chapter.

(f) The provisions of this Section shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

6.20.080 Regulations.

The City Manager or designee may promulgate regulations, which may include, but are not limited to, permit conditions, reporting requirements, inspection frequencies, enforcement procedures, additional advertising restrictions, disclosure requirements, administrative subpoena procedures or additional insurance requirements, to implement the provisions of this Chapter. No person shall fail to comply with any such regulation.

6.20.090 Fees.

The City Council may establish and amend by resolution all fees and charges as may be necessary to effectuate the purpose of this Chapter, including, but not limited to, the application fee required by Section 6.20.021.

6.20.100 Enforcement.

(a) Any host violating any provision of this Chapter, any person other than a hosting platform who facilitates or attempts to facilitate a violation of this Chapter, or a hosting platform that violates its obligations under Section 6.20.050, shall be guilty of an infraction, which shall be punishable by a fine not exceeding $750, or a misdemeanor,

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which shall be punishable by a fine not exceeding $1,000, or by imprisonment in the County Jail for a period not exceeding six months or by both such fine and imprisonment.

(b) Any person convicted of violating any provision of this Chapter in a criminal case or found to be in violation of this Chapter in a civil or administrative case brought by a law enforcement agency shall be ordered to reimburse the City and other participating law enforcement agencies their full investigative costs, pay all back TOTs, and remit all illegally obtained rental revenue to the City so that it may be returned to the home-sharing visitors or used to compensate victims of illegal short-term rental activities.

(c) Any host who violates any provision of this Chapter, any person other than a hosting platform who facilitates or attempts to facilitate a violation of this Chapter, or a hosting platform that violates its obligations under Section 6.20.050, shall be subject to administrative fines and administrative penalties pursuant to Chapters 1.09 and 1.10 of this Code.

(d) Any interested person may seek an injunction or other relief to prevent or remedy violations of this Chapter. The prevailing party in such an action shall be entitled to recover reasonable costs and attorney's fees.

(e) The City may issue and serve administrative subpoenas as necessary to obtain specific information regarding home-sharing and vacation rental listings located in the City, including, but not limited to, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay, to determine whether the home-sharing and vacation rental listings comply with this Chapter. Any subpoena issued pursuant to this section shall not require the production of information sooner than 30 days from the date of service. A

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person that has been served with an administrative subpoena may seek judicial review during that 30 day period.

(f) The remedies provided in this Section are not exclusive, and nothing in this Section shall preclude the use or application of any other remedies, penalties or procedures established by law.

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance

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shall become effective 30 days from its adoption, and shall apply to all home-shares, including those operating under business licenses obtained prior to the effective date of this Ordinance.

APPROVED AS TO FORM:

DocuSigned by:

FEC6DBA8A0D3460...

LANE DILG
City Attorney

DocuSign Envelope ID: 467A65C9-D9FC-4927-B12C-F062C5608568

Approved and adopted this 24th day of September, 2019.

DocuSigned by:
8FE4004DAD0B40B...
Gleam Davis, Mayor

State of California)
County of Los Angeles) ss.
City of Santa Monica)

I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2616 (CCS) had its introduction on September 10, 2019, and was adopted at the Santa Monica City Council meeting held on September 24, 2019, by the following vote:

AYES: Councilmembers Morena, McKeown, Himmelrich, Winterer, Jara, Mayor Pro Tem O'Day, Mayor Davis

NOES: None

ABSENT: None

ATTEST:

DocuSigned by:
E2E85B056A714C3...
Denise Anderson-Warren, City Clerk

10/23/2019
Date

A summary of Ordinance No. 2616 (CCS) was duly published pursuant to California Government Code Section 40806.

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

Subject: Short Term Rentals

From: Steve Uhring
Date: October 27, 2019 at 3:34:36 PM PDT
To: Karen Farrer <kfarrer@malibucity.org>, Skylar Peak <speak@malibucity.org>, Rick Mullen <rmullen@malibucity.org>, Jefferson Wagner <zumajays@mac.com>, Mikke Pierson <mpierson@malibucity.org>
Subject: Short Term Rentals

You folks have a lot to read so I will keep this short.

I do not think you have the votes to a full ban on SRT. That said, the next best thing is to adopt the Santa Monica ordinance in full, without any changes. It will deal with the big issue of non-resident ownership of STR and It has been through the courts, so it will give us something we can implement quickly.

.Finally you have some hurdles to get over in getting the regulations implemented and enforced. Michael Lustig has forgotten more about STR than most of us know.He can be an effective resource in helping you get this done right. He is smart,. Tap into what he knows.

The attached letter from the City of New Orleans demonstrates how helpful lhe can be.

steveU

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

HELENA MORENO
COUNCILMEMBER AT-LARGE

Office (504) 658-1060
1300 Perdido Street • Suite 2W40
New Orleans, Louisiana 70112

New Orleans City Council

Michael Lustig
25410 Malibu Rd
Malibu, CA 90265

October 23, 2019

Dear Michael,

Over the past year, as you are well aware, the Council of the City of New Orleans undertook a complete overhaul of our short-term rental regulations both within our City's Code via Ordinance Cal. No. 32,691 and within our Comprehensive Zoning Ordinance via Cal. No. 32,685. In August 2018, the New Orleans City Council voted unanimously to enact these two ordinances designed to significantly tighten the city's short-term rental laws. The votes were the culmination of 15 months of work by the City Council and these new rules will go into effect December 1, 2019.

Leveraging your willingness to talk through legislative approaches in other cities and your impressive matrix of short-term rental regulations throughout the world, both my Chief of Staff and Legislative Director studied municipalities' responses both within the United States and abroad extensively. This deep-dive culminated in a heightened appreciation of the challenges created by short-term rentals in other cities and a thorough understanding of the variety of legislative approaches taken to address impacts on communities. Ultimately, our goal is to ensure that a balance exists between encouraging tourism and hospitality growth while also minimizing any impacts on neighborhoods including the displacement of long-term residents.

I am most thankful that my staff was able to benefit from your guidance and knowledge of this subject matter during our internal research phase and throughout our collaboration with other council offices and stakeholders while drafting the above referenced legislative instruments.

Sincerely,

Helena Moreno
City Council President
New Orleans City Council

Heather Glaser

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

From:
Sent: Friday, October 25, 2019 5:42 PM
To: cityclerk
Subject: Short Term Rental Ban

Hello, my name is Sean Xie, one of the owners utilize short term rental platforms. We are very honest and respectful home owner that we are against the short term rental ban. Here are a few of my points:

1. Most owners are very respectful and do not allow parties at our properties. At the current time, there is mechanism in place to penalize people that do not respect their neibors.

2. Financially, it is mutual beneficial to the city of Malibu and to the home owners. We are not big corporations; instead, the income from our short term rental significantly help us pay mortgage, as the home price for California is out of control. The tax we pay the city would greatly benefit all of our residents and visitors.

3. Many of the complaints those want a short term rental ban are not valid. Their mentality is "As I am not making any money, I don't want any of my neighbors to make any money." As a mater of fact, they should be happy that the neighbor is making some money, maintaining their house, and also at the same time, paying taxes to benefit the entire community. In other words, why
are people so selfish?

4. Unlike Santa Monica, there are very few hotels/motels in Malibu. The banning of short term rental would be for sure bring up many law suits, further wasting more time and money for the city of Malibu. Although Santa Monica won their judgement, Malibu is a totally different story, in terms of hospitality resources and demographics.

I would like to have my voice heard, and I certainly hope the city of Malibu would allow current arrangement for the home owners to maintain their current short term rental arrangement, although I am in support of the reinforcement of the current rules and regulations.

Thank you

Sean Xie
home owner

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

BIG ROCK MESAS

PROPERTY OWNERS ASSOCIATION

ESTABLISHED 1947

P.O. BOX 1146, MALIBU , CA 90265

RECEIVED
OCT 28 2019
CITY CLERKS OFFICE

October 18, 2019

Dear Big Rock Property Owners and Residents,

As you are probably aware the City of Malibu has been challenged with the proliferation of short-term rental (STRs) through various platforms. The issue will again be taken up by the Malibu City Council on Monday, October 28th. Your Property Owners Association recommends:

- That you educate yourself on the issue:
  https://www.fool.com/investing/2019/03/08/airbnb-everything-investors-need-know- before-ipo.aspx
  https://techcrunch.com/2019/09/19/airbnb-says-it-will-go-public-next-year/
  https://www.wired.com/story/inside-airbnbs-guerrilla-war-against-local-governments/
- Determine what is at stake for you and your community
- **Sign the petition: https://www.ipetitions.com/petition/regulate-before-its-too-late-3**
- Attend the City Council meeting on October 28th at 4:40 pm at 23825 Stuart Ranch Road

We believe that short term rentals are dramatically changing our Malibu neighborhoods. Over the last three years (2016-2018) it has been reported that short term rentals in Malibu have increased by 243% - with no sign of slowing down. If Malibu does not get control of STRs, all of our neighborhoods will become STR-type motels and the Malibu quality of life we all enjoy will be gone.

There is no doubt that the business model is a financial powerhouse for the companies that run these platforms. This kind of revenue is not only seductive to individual renters but to the municipalities that stand to gain from the tax revenue. In our case, Malibu sees the huge tax potential. But at what cost to *our* community and quality of life?

Big Rock Mesas Property Owners Association joins The Malibu Road Association, The Malibu Township Council and the Malibu Community Action Network requesting that the City Council take steps to get STRs under control. Among other things, the petition asks the Council to only allow STR in residences where the owner is present. This would mean that the *current* practice which allows non-residents to run their second or third homes as fulltime short-term rentals would be eliminated. The petition also requires the Council to have full time weekend code enforcement officers in Malibu to deal with STR abuses.

Your BRMPOA Board continues to pursue that which is in the interest and safety of our whole community. Thank you for your prompt attention to this matter.

On behalf of the Big Rock Mesas POA,

Terry Davis, President

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

CC: Council; CM; CA; PL; Ref. Binder; original to 10/28/19 Agenda File

Kelsey Pettijohn

RECEIVED
Oct 21 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Subject: short term rentals

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

From:
Sent: Monday, October 21, 2019 1:02 PM
To: Justine Kendall <jkendall@malibucity.org>
Subject: short term rentals

opposed to short term rentals

Malibu city counsel opposed a hotel at pch and Malibu canyon that would have added to city revenue

Now they are proposing to turn every house into a rental

the market study that showed income coming into the city is flawed.
it does not take into account that longer term tenants spend any money in Malibu or eat out at resturants
it does not take into account how it will hurt our quest for our own Malibu school district
it does not take into account the disruption of neighborhoods

I have seen what has happened in maui. I am now seeing the huge backlash as long term renters in maui are totally displaced by tourists.

Malibu as another Newport beach. please just say no unless a owner is living on the site

its not good for malibu

BEST REGARDS
TERRY LUCOFF

Coldwell Banker Realty
Malibu California
310 317 8391 office line
310 924 1045 field contact
Dept of Real Estate #01112504

CC: Council; CM; CA ;_____; Ref. Binder; Original to 10/28/19 Agenda File

Kelsey Pettijohn

Subject: Short-Term Rental Ordinance - October 28, 2019 City Council Meeting, Agenda Item 5A
Attachments: EG Letter to Malibu CC STR Proposal SIGNED 102819.pdf

Importance: High

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/19
Agenda Item # 5A

RECEIVED
OCT 28 2019
CITY CLERKS OFFICE

From: Walter Gonzales (ELCA) <wagonzales@expediagroup.com>
Sent: Monday, October 28, 2019 1:21 PM
To: Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Skylar Peak <speak@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>
Cc: Heather Glaser <hglaser@malibucity.org>; cityclerk <cityclerk@malibucity.org>; Kelsey Pettijohn <kpettijohn@malibucity.org>; Walter Gonzales (ELCA) <wagonzales@expediagroup.com>
Subject: Short-Term Rental Ordinance - October 28, 2019 City Council Meeting, Agenda Item 5A
Importance: High

Dear Mayor Farrer and Councilmembers,

Thank you for the opportunity to provide comment on the City of Malibu's efforts to regulate short-term rentals (STRs). Expedia Group is a family of brands that includes vacation rental leaders Vrbo and HomeAway. Our experience working with communities in California and around the world gives us a unique understanding of the kinds of regulations that work for municipalities like Malibu.

Expedia Group supports regulations and oversight of the short-term rental (STR) industry, but not an outright ban. We welcome the responsible regulation of the industry, because we see STR's as an important part of the fabric of tourism. STRs provide an essential option within the visitor industry for travelers, such as families, and gives them an opportunity to enjoy your beautiful city in a more personal setting.

An often unacknowledged casualty of the banning of STRs would be the community of small businesses and local homeowners who will be severely harmed. Malibu deserves a short-term rental ordinance that responsibly regulates the activity while also recognizing the important economic benefits STRs provide to the local economy and the families who benefit, not to mention the revenue generated for much needed municipal expenditures.

Expedia Group has learned that policies work best when governments and platforms work together. We offer platform tools to assist the City with compliance.

- Platforms will create a mandatory field for owners to enter their permit number, in the same format as issued by the City of Malibu;
- Platforms will display the permit numbers on all new and existing property listings;
- Platforms will remove any existing listing that does not display a permit number, and will prohibit any new listings that do not display a permit number;
- If the City determines that any permit numbers are invalid, either because the number is incorrect or has expired, it can notify the platform, and the platform will remove the listing from its platforms within 10 business days of receiving notice;

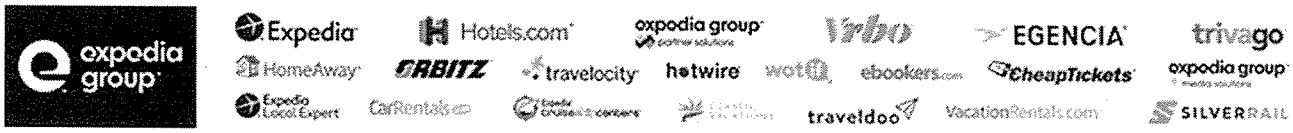
CC: Council; CM; CA; PL; Ref. Binder; original to 10/28/19 Agenda File

- To allow the City to determine the validity of the permit numbers supplied by the owners, platforms will send to the City, on a quarterly basis, a list that matches URLs of every vacation rental listing on its site together with the permit number for that listing;

We welcome the opportunity to work together in the direction of responsibly regulating STRs and look forward to working with you further to identify sustainable, workable, and legal ways to assist Malibu in increasing compliance with local regulations. Please feel free to contact me at wagonzales@expediagroup.com or 512-505-1615 with any questions.

Sincerely,

Walter R. Gonzales
Government Affairs Manager, Southwest Region
11920 Alterra Parkway
Austin, Texas 78758
Direct: 512.505.1615
wagonzales@expediagroup.com



This electronic communication (including any attachment) may be confidential. If this communication is addressed to any Expedia Group personnel or legal counsel, it is also attorney-client privileged. If you are not an intended recipient of this communication, please be advised that any disclosure, dissemination, distribution, copying or other use of this communication or any attachment is strictly prohibited. If you have received this communication in error, please notify the sender immediately by reply e-mail and promptly destroy all electronic and printed copies of this communication and any attachment.



October 25, 2019

Mayor Farrer and Councilmembers
City of Malibu
City Council
23825 Stuart Ranch Road
Malibu, CA 90265

RE: Short-Term Rentals, City Council Agenda Item No. 5A

Dear Mayor Farrer and Councilmembers,

Thank you for the opportunity to provide comment on the City of Malibu's efforts to regulate short-term rentals (STRs). Expedia Group is a family of brands that includes vacation rental leaders Vrbo and HomeAway. Our experience working with communities in California and around the world gives us a unique understanding of the kinds of regulations that work for municipalities like Malibu.

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Sincerely,



Walter R. Gonzales
Government Affairs Manager
Expedia Group

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

From: Walt Keller
Sent: Sunday, October 27, 2019 1:47 PM
To: Karen Farrer; Mikke Pierson; Jefferson Wagner; Rick Mullen; Skylar Peak
Cc: Heather Glaser
Subject: Oct. 28 meeting. Short Term rentals.

State code 65860 requires Land use in Malibu to be consistent with the General Plan , Malibu Local Coastal Plan and Implementation Program. Based on the fact that hotel, motel and bed and breakfast use is shown on the LIP's Chart B "Permitted Land Use" as allowed ONLY in commercial CVl and CV2 zones and NOT on residential zoned property, we agree with the Planning Commission - short term rentals are prohibited on residentially zoned property. We support the City Council's vote to ban short term rentals in residential zones. You have a ban in place - str's are banned by General Plan language and the vote of both bodies. Now enforce it.

Last year City Staff told us short term rentals have been allowed on residential zoned land because their interpretation is that because long term rental is allowed so is short term. BUT the uses are very different and incompatible. Long term rental is residential use. Short term rental is temporary transient commercial use. The General Plan and LIP already provide a land use category and sites for short term rentals – the commercial visitor serving zoned sites now in use. Recent appellate court decisions verify that an entity cannot consider uses legal just because they are not specifically banned.

Because the LIP allocates B&B use to a specific land use zone, neither the staff nor the City Council can "interpret" allowing that use in residential zones without going through an LIP amendment. That public hearing process would provide public input and identify detrimental changes that would take place by adding transient use to residential zones.

Finances should not drive this decision - the recent financial report shows FEMA owes the city $10M.

We oppose short term rental in any residential zone but are especially concerned when the properties are owned by corporation. If this continues our community will become a commercial resort controlled by large corporations. You have heard testimony from residents re the negative impact on residents. Renters show no concern regarding noise from large parties, security risks, for the safety of residents, or damage done. Neighbors are replaced with a steady stream of renters. Last year's fire demonstrates how important our neighbors are to our well being.

The security and fire risks are much greater when there is a stream of transient tenants staying a short time who have no interest in the community. They have different interests than long term tenants who have the same concerns as homeowners and are residents of the community - whose children attend our schools and churches, whose well being is at the same risk as homeowners.

Communities throughout the world have had bad experiences with str's. Let's learn from them and avoid the use altogether. There is no way to protect neighboring properties from this type of use when there is no responsible homeowner on site. Zoning is intended to protect properties from incompatible use. Let's use the tools at hand to avoid similar experiences. Walt and Lucile Keller

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City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

RECEIVED
Oct 28 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

From: Walt Keller
Sent: Sunday, October 27, 2019 2:36 PM
To: Karen Farrer; Mikke Pierson; Rick Mullen; Skylar Peak; Jefferson Wagner
Cc: Heather Glaser
Subject: Oct 28 Council hearing short term rentals

LaChusa Highlands Property Owners Assn.
4244 Ave de la Encinal
Malibu, Ca., 90265

Oct. 28, 2019

Short Term Rentals

Malibu City Council
Mayor Farrer, Councilmen Pierson, Wagner, Peak and Mullen

Our members are property owners in the LaChusa Highlands area of West Malibu.

Our Board of Directors has voted to oppose short term rentals in residential areas of Malibu. We understand that the City Council voted to ban str's in residential zones. We support that motion. We are particularly concerned with Investment Corporations buying up properties only for the purpose of using them for short term rentals. This has already started happening in our neighborhood. We are very concerned with the safety and noise issues involved in having a transient population in our midst who have no interest in the community and, in particular, are probably unaware of the area's vulnerability to fire. The City's primary concern should be the safety and well being of its residents.

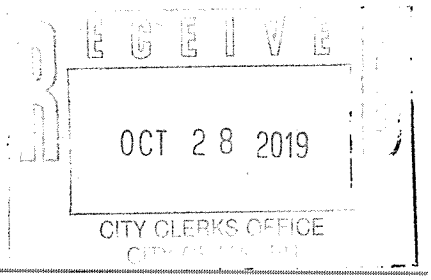
For the Board of Directors

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/28/2019
Agenda Item # 5.A.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/28/2019 Agenda File

Kelsey Pettijohn

Subject: short term rentals



From: Zelman, Walter A.
Sent: Monday, October 28, 2019 11:25 AM
To: Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>
Subject: RE: short term rentals

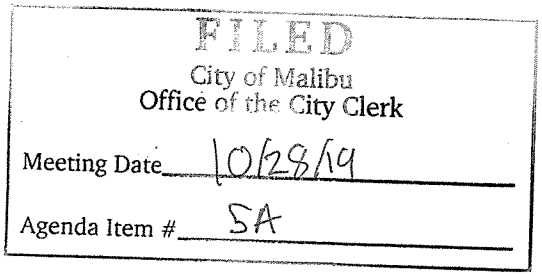
Dear Council Members:

I oppose short term rentals for commercial use and in apartments and condominiums. Allowing such rentals could entail a series of negative impacts, including: community noise levels; presence of many individuals who do not understand issues surrounding fire; an influx of individuals who may not be community-oriented; increased traffic congestion.

It seems clear that short term rentals may create some benefits –income to some, and tax revenue to the City. But I believe those benefits will be outweighed by the likely negative results.

One compromise, it seems, might be to allow homeowners who have an extra room to rent that room out on a short term basis. But short term rentals in apartments and condominiums seems inappropriate.

Walter Zelman
Big Rock



CC: Council; CM; CA; PL; Ref. Binder; Original to 10/28/19 Agenda File

10/28/19
Item 5A
Joanne Gary







10/28/19
Item 5A
Staff

City of Malibu

Financial Analysis

City Council Presentation – October 28, 2019

RAFTELIS

Agenda

- Current Situation
- Financial Model Functionality
- Key Assumptions
  - Woolsey Fire
  - Short-Term Rentals
- Status Quo
- Scenarios
- Key Take Away

Current Situation

- Starting from a strong financial position
- Woolsey Fire had major impact
  - Reduced revenues
  - Significant response and rebuild costs
- Evaluating a ban on short-term rentals

The City engaged Raftelis to develop a financial planning model and analyze financial impacts of the Woolsey Fire and potential short-term rental ban

Process

- Obtain critical data
- Review and analyze data
  - Most importantly the City's current and past budgets
- Develop assumptions to forecast all revenues and expenses
- Validate assumptions with City staff
- Build the financial planning model
- Validate the model with City staff
- Present findings

Model Functionality

- The model takes into account
  - Impacts from Woolsey Fire
  - Impacts from a potential short-term rental ban
- The model can evaluate
  - Cost of the Woolsey Fire
  - Cost of partial and full short-term rental ban
- The model dashboards
  - Financial Plan
  - Fund Balance
  - Revenues and Expenditures

Budget Areas Evaluated

- Revenues
  - Property tax
  - TOT and all other taxes
  - Licenses and permits
  - Fines and forfeitures
  - FEMA/OES and other government revenues
  - Service charges
  - Interest earnings and use fees
  - Miscellaneous revenues
- Expenditures
  - All City departments
  - Fire rebuild
  - Storm response
  - Disaster related capital projects
  - City's capital improvement plan

Other Items Evaluated

- Revenues
  - Increase in registration revenues due to a partial short-term rental ban
  - Increase in short-term rental penalties due to short-term rental ban
- Expenditures
  - Increased enforcement costs due to a partial or short-term rental ban
  - Potential increase in legal costs due to a full short-term rental ban

Insufficient Data to Quantify:

- “Trickle down effect” of short-term rental ban scenarios
- Possible impact to sales tax of short-term rental ban scenarios
- Potential impact to property values of short-term rental ban scenarios

Assumptions

- Informed, reasonable, and conservative
- Revenues
  - Historical property tax growth rates
  - CPI
  - Historical trends
  - Special assumptions based on inputs and scenarios
- Expenditures
  - CPI
  - Historical trends
  - Special assumptions based on inputs and scenarios
  - Actual debt service

Financial Policies

- Reserve Targets
  - Fund Balance
    - City Council Policy– 50% of operating budget
    - City Council Goal– 65%
  - The City has been and remains committed to maintaining a healthy general fund reserve in recognition of the City's disaster prone environment

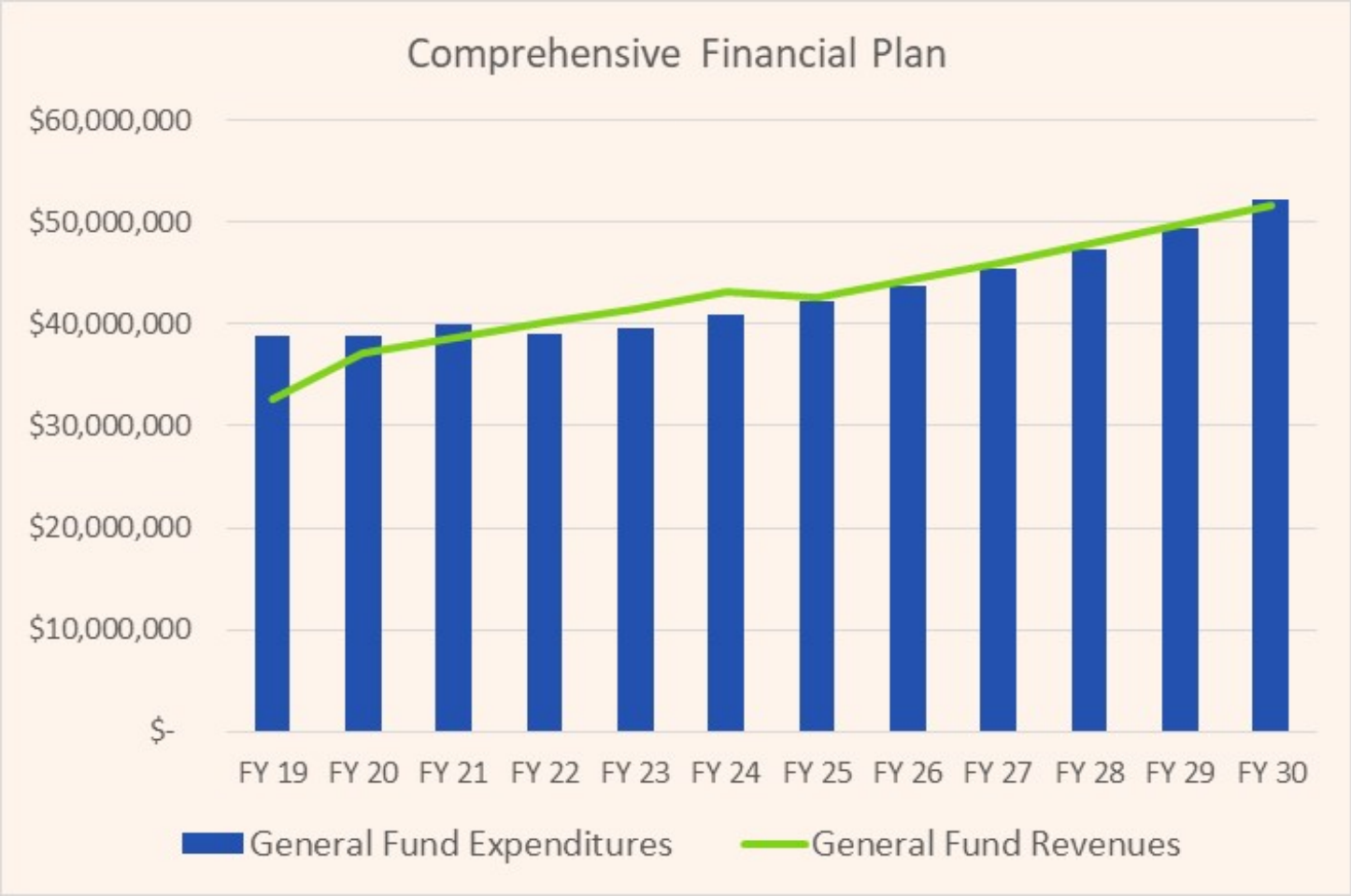
Status Quo Summary

- Property value growth rate of 5.7%
  - Based upon 2012 to 2019 growth rate
- Fees increase at CPI
- Impacts of Woolsey Fire
  - Major general fund operating expenditures continue through 2023
  - Additional flood/debris flow mitigation through 2026
  - FEMA reimbursements over 5 years beginning in FY 2021
- No short-term rental ban
- Debt service increases substantially due to 2018 COP
  - For the purchase of vacant land
- Public Safety
  - Recent increases to level of service flow into forecast
  - Increase in FY 2023 due to new Sheriff station

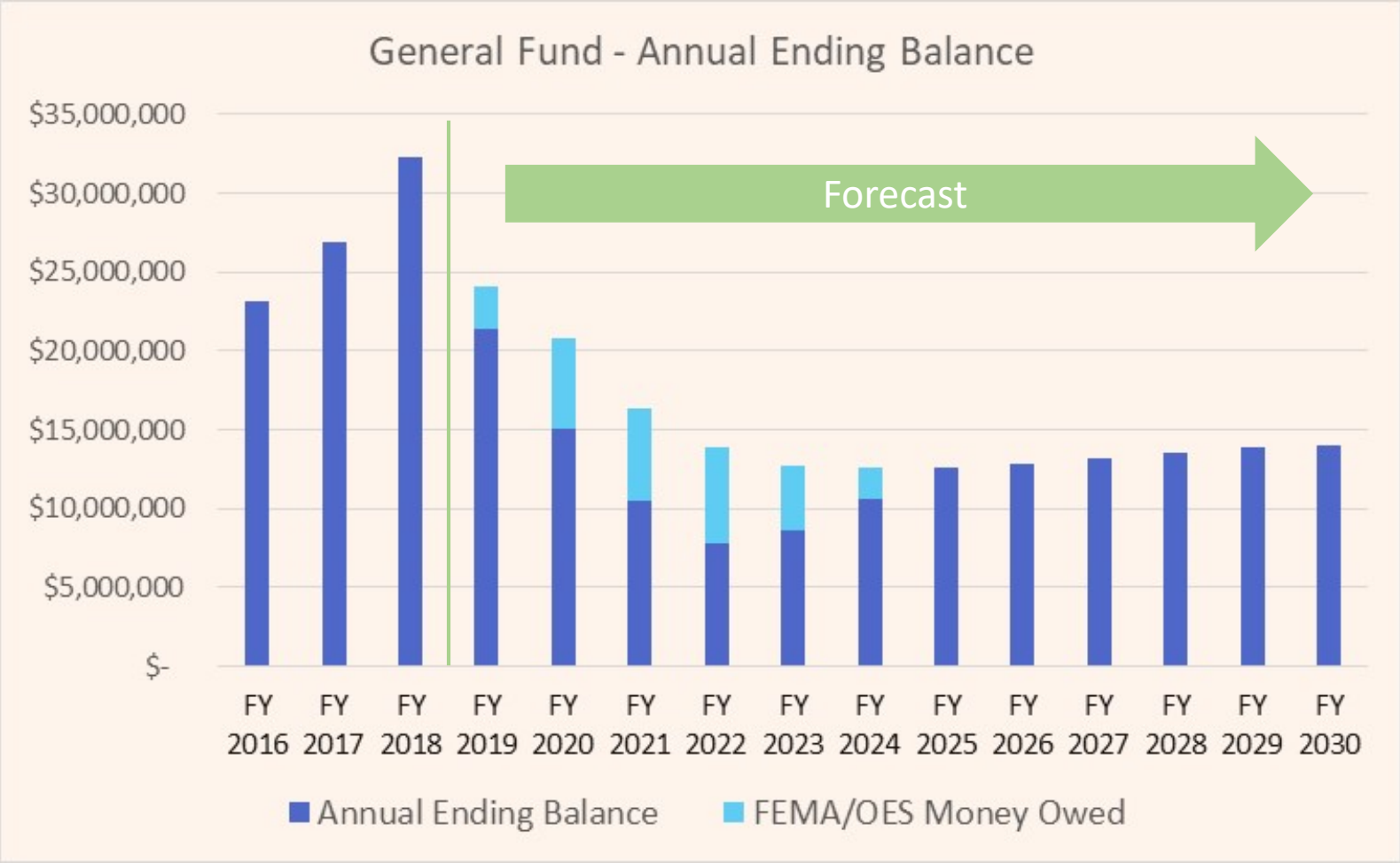
Change in Property Tax
From 2003 to 2020



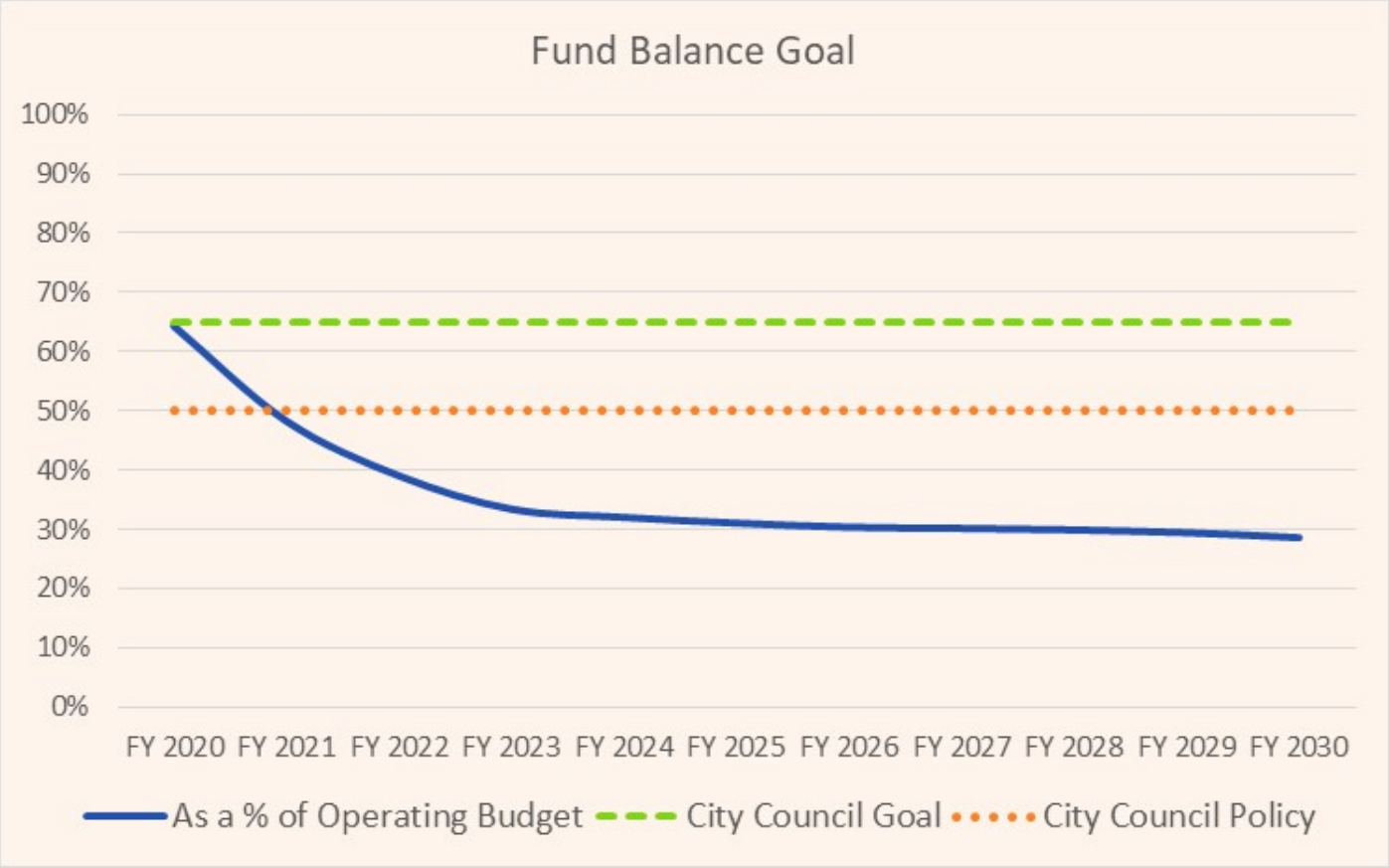
Status Quo - Financial Plan



Status Quo – Ending Fund Balance



Status Quo – Fund Balance Goal



Key Observations – Status Quo

- Property Tax revenue assumptions subject to high degree of variability
- Un-reimbursed Woolsey Fire costs reduce General Fund balance by $13.4 million from FY 2019 – FY 2025
- Increase in COP debt service for the purchase of vacant land and expected public safety costs impact City's ability to restore general fund reserves

Assumptions – Woolsey Fire

- Property Tax Values
  - 3 Year Recovery
- Capital
  - FEMA/OES reimbursable costs
  - Non-reimbursable General Fund costs
- Operating
  - Fire rebuild costs
    - Increase consultant cost
  - Storm response costs
- “Like for Like” Permit Waivers
  - Due to waivers being offered in FY 2020, study assumed historical average for permit revenues
  - City may actually see an increase in permit revenues due to residents who do not rebuild “Like for Like.”
  - Revenue impacts from permits associated with rebuilds is difficult to quantify

Woolsey Fire – Impacts Overview

Woolsey Fire Recovery Table	FY19 - FY25 Total
CIP General Fund - Not Reimbursable	$ 1,257,220
CIP FEMA/OES - Reimbursable	10,080,001
3002 Fire Rebuilds	9,835,737
3002 Storm Response	2,300,000
Total Cost	**$ 23,472,958**
Projected FEMA/OES Reimbursements	**$ 10,080,001**
Net Cost to the City	**$ 13,392,957**

Potential Short -Term Rental Ban Assumptions

- Status Quo Assumption
  - TOT revenues increase from pre-fire levels based on CPI
- Partial Ban Assumptions
  - 50% or 25% reduction to STR TOT revenues in FY 2021
  - Lost revenue percentages designed to approximate the level of restrictiveness of potential regulation/ban
- Full Ban Assumptions
  - 100% reduction to STR TOT revenues in FY 2021
- For All Ban Scenarios the Study Evaluated
  - Potential impacts to STR registration and enforcement penalty revenues
  - Potential costs of additional code enforcement staffing

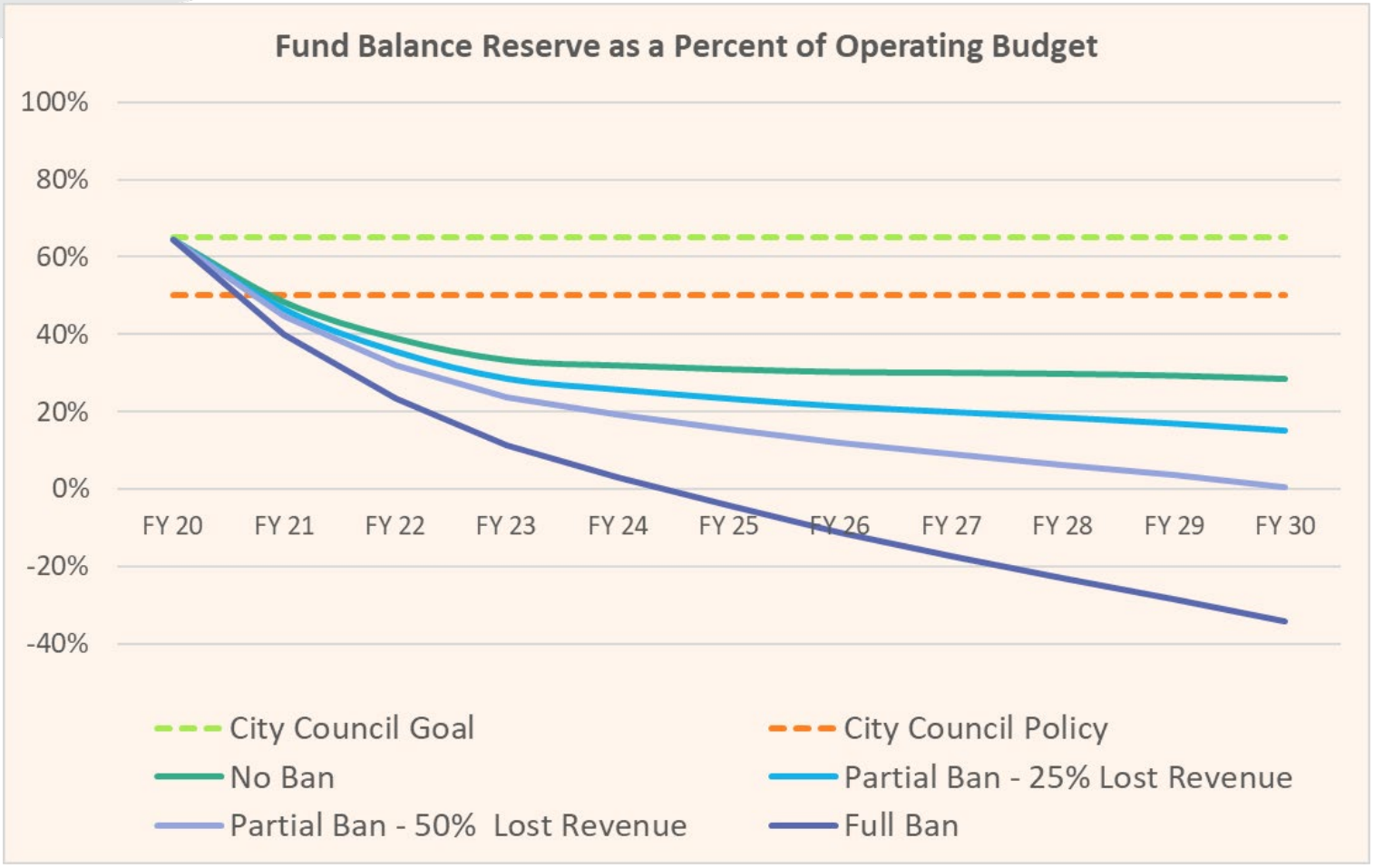
10 Year Impact on Short-Term Rental Ban
FY 2021 to FY 2030

	Estimated STR Revenue	Net Impact vs. Status Quo
No Ban	$ 27,600,000	
Partial Ban 25%	$ 22,659,000	$ (6,300,000)
Partial Ban 50%	$ 15,792,000	$ (13,167,000)
Full Ban	$251,000	$ (30,036,000)

Revenues Include:

- STR-TOT
- STR Registrations
- STR Penalties

Fund Balance Goal – STR Ban Scenarios



Key Take Away

- City needs to carefully monitor and forecast property tax revenues due to variability
- A partial or full short-term rental ban could significantly impact the City's finances
  - Already strained by the vacant land purchase, Woolsey Fire, winter storms and the fire rebuild
- City should work to minimize non-reimbursable one-time Woolsey costs
  - Currently estimated at $13.4 million from FY19 - FY25
- Consider limiting service level enhancements until full impact of Woolsey Fire determined
- May need to defer General Fund CIP projects

Thank you!

MINUTES
MALIBU CITY COUNCIL
ADJOURNED REGULAR MEETING
OCTOBER 28, 2019
COUNCIL CHAMBERS
4:00 P.M.

MEETING CALL TO ORDER

Mayor Farrer called the meeting to order at 4:02 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Karen Farrer; Mayor Pro Tem Mikke Pierson (via teleconference); and Councilmembers Rick Mullen; Skylar Peak; and Jefferson Wagner

ALSO PRESENT: Trevor Rusin, Assistant City Attorney; Reva Feldman, City Manager; Lisa Soghor, Assistant City Manager; Jesse Bobbett, Community Services Director; Heather Glaser, City Clerk; Yolanda Bundy, Environmental Sustainability Director; Bonnie Blue, Planning Director; Rob DuBoux, Public Works Director; Susan Dueñas, Public Safety Manager; Matt Myerhoff, Media Information Officer; Jerry Vandermeulen, Fire Safety Liaison; Kelsey Pettijohn, Deputy City Clerk; Jessica Cleavenger, Associate Planner; Justine Kendall, Assistant Planner; and Richard Mollica, Assistant Planning Director

PLEDGE OF ALLEGIANCE

Graham Clifford led the Pledge of Allegiance.

APPROVAL OF AGENDA

MOTION Councilmember Mullen moved and Councilmember Peak seconded a motion to approve the agenda. The question was called and motion carried unanimously.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Staff Update on Disaster Response and Recovery

Public Safety Manager Dueñas discussed staff preparation for potential Public Safety Power Shutoffs. She stated staff was monitoring several fires in California that could affect the City.

Fire Safety Liaison Vandermuelen presented an update on the current state of the Getty Fire and the Oak Fire.

Public Safety Manager Dueñas stated staff sent one Everbridge message to eastern Malibu, six alerts through the emergency alert system on the City's website, six traffic advisories, nine Nixle alerts, and posted five newsflashes on

the website in response to local fires. She discussed staff's activation of the Emergency Operations Center (EOC) and EOC activities in response to the Getty Fire. She stated very high wind speeds were expected on October 30, 2019 and there was a Public Safety Power Shutoff warning for the Galahad Circuit. She recommended anyone medically dependent on electricity or who would have other challenges evacuating in an emergency consider relocating during the high wind event. She recommended everyone prepare to evacuate in the event of an emergency and sign up for disaster notifications on the City's website.

Assistant Planning Director Mollica stated 57 applications for like-for-like, 99 applications for like-for-like plus 10%, and 12 rebuild applications with a major change had been approved by the Planning Department. He stated 168 primary residence permits, 25 accessory dwelling unit permits, and 93 accessory structure permits had been approved. He stated $944,116 in rebuilding fees had been waived.

Environmental Sustainability Director Bundy stated 32 building permits for primary residences had been approved, 60 projects were under plan check review, and 78 were preparing to submit for their building permits. She stated staff would reach out to all homeowners who may need to rebuild regarding services and support offered by staff. She stated staff would also be reaching out to the public and design professionals to ensure the rebuild regulations were clear. She stated the Malibu Gardens multi-family project was in plan check review.

REPORT ON POSTING OF AGENDA

Deputy City Clerk Pettijohn reported that the agenda for the meeting was properly posted on October 17, 2019.

ITEM 2.A. PUBLIC COMMENTS

Ted Vaill discussed an arsonist who flew into California and had started 13 fires.

Scott Dittrich encouraged the Council to work with California Insurance Commissioner Richardo Lara to create a program that could lower fire insurance rates if a property passed a fire resiliency inspection.

Annie Ellen discussed the Trancas Riders and Ropers Shrimp Show. She thanked the Community Services Department for supporting the event and loaning equipment to replace what was lost in the fire. She expressed concern that many properties surrounding the Malibu Equestrian Park had not cleared their brush. She recommend the City hire goats to clear brush.

Nichole McGinley stated, according to Waste Management, anything in an opaque trash bag that was thrown into a recycle bin would not actually be recycled. She requested the City push out information about recycling requirements. She requested the City provide brown bins to recycle cardboard.

Kraig Hill discussed the stress the Getty Fire had caused in the community. He stated the Getty Fire was caused by a tree falling on power lines.

ITEM 2.B. COMMISSION / COMMITTEE / CITY MANAGER UPDATES

Lance Simmens stated the Public Works Commission opposed Caltrans' plan to install a crosswalk near Malibu Seafood when an existing underpass under Pacific Coast Highway was a viable alternative.

Scott Dittrich indicated support for using the underpass near Malibu Seafood for pedestrian crossing instead of installing a new crosswalk on Pacific Coast Highway (PCH).

City Manager Feldman stated Public Safety Commissioner Andy Cohen had passed away. She stated Los Angeles County Sheriff's Department Malibu/Lost Hills Station Captain Vander Horck would provide an update on Sheriff's Department staffing at the next Council meeting. She stated staff was working with California Insurance Commissioner Lara's staff to have another event in the City before the end of the year. She stated staff would look into brush clearance in Malibu Park. She stated the City did not own any open space where goats could be used for brush clearance. She announced a community listening session on October 29, 2019. She stated Caltrans would host a meeting on October 30, 2019, regarding a potential crosswalk near Malibu Seafood. She announced a rain barrel give away on November 2, 2019, and a community gathering commemorating the one-year anniversary of the Woolsey Fire on November 9, 2019.

ITEM 2.C. SUBCOMMITTEE REPORTS / COUNCIL COMMENTS

Councilmember Mullen discussed Andy Cohen's dedication to public service. He discussed the Los Angeles County Fire Department's augmented staffing during red flag warning conditions. He thanked staff for the public messaging regarding local fires and potential Public Safety Power Shutoffs. He encouraged the public to sign up for emergency alerts. He stated the underpass at Topanga and PCH could be a model for future pedestrian crossings.

Councilmember Peak expressed his condolences for Mr. Cohen's family. He stated he attended a Clean Power Alliance (CPA) meeting, and a Los Angeles County Woolsey Fire Task Force Special meeting on the proposed final after-action report regarding the Woolsey Fire. He thanked the Fire Department for its quick response to the Oak Fire.

Councilmember Wagner stated he attended a Santa Monica Bay Restoration Commission meeting. He expressed his condolences for Mr. Cohen's family.

Mayor Pro Tem Pierson expressed his condolences for Mr. Cohen's family. He stated he attended a League of California Cities conference, an event at Big Heart

Ranch, a Clergy Advisory Council meeting at the Malibu/Lost Hills Sheriff's Station, a Los Angeles County Woolsey Fire Task Force Special meeting on proposed final after-action report regarding the Woolsey Fire, and the screening of the Johnny Strange: Born to Fly documentary.

In response to Mayor Pro Tem Pierson, City Manager Feldman stated an item to consider banning pesticides would be coming back to the Council on December 9, 2019.

Mayor Farrer discussed the fire danger posed by allowing camping in Environmentally Sensitive Habitat Areas. She thanked staff for pushing out emergency messaging. She stated she attended a Las Virgenes-Malibu Council of Governments meeting, met with her Public Safety Commissioner, and attended a League of California Cities conference. She stated Los Angeles County Sheriff's Department Lieutenant Seetoo had been reassigned. She stated she was interviewed by Pepperdine students. She stated she attended a Clergy Advisory Council meeting at the Malibu/Lost Hills Sheriff station, the Optimist Club youth achievement awards, the screening of the Johnny Strange: Born to Fly documentary, and a Los Angeles County Woolsey Fire Task Force Special meeting on the proposed final after-action report regarding the Woolsey Fire. She stated comments on the proposed final after-action report would be accepted by Los Angeles County until November 8, 2019.

City Manager Feldman stated she had received an updated extreme red flag warning that would be in effect from 11:00 p.m. on October 29, 2019, to 6:00 p.m. on October 31, 2019. She stated the peak of the wind event would be on October 30, 2019. She encouraged the public to sign up for emergency alerts and check the City's website for updated information.

ITEM 3 CONSENT CALENDAR

Item Nos. 3.A.1. and 3.B.5. were pulled by the public.

MOTION Councilmember Peak moved and Councilmember Mullen seconded a motion to approve the Consent Calendar, except for Item Nos. 3.A.1. and 3.B.5. The question was called and the motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

2. Second Reading and Adoption of Ordinance No. 452
   Recommended Action: Conduct second reading, unless waived, and adopt Ordinance No. 452 amending Chapter 8.12 of Title 8 of the Malibu Municipal Code to add provisions for "Very High Fire Hazard Severity Zones" and finding the same exempt from the California Environmental Quality Act.

B. New Items

1. Waive Further Reading
   Recommended Action: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.
2. Approve Warrants
   Recommended Action: Allow and approve warrant demand numbers 58289-58440 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 647 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of $2,847,794.36. City of Malibu payroll check numbers 5052-5055 and ACH deposits were issued in the amount of $213,949.60.
3. Approval of Minutes
   Recommended Action: Approve the minutes for the September 23, 2019 Malibu City Council Regular meeting.
4. Amendment to Professional Services Agreement with Kimley-Horn and Associates, Inc.
   Recommended Action: Authorize the City Manager to execute Amendment No. 1 to the Professional Services Agreement with Kimley-Horn and Associates, Inc. in the amount of $50,000 for additional engineering plan check services to provide Woolsey Fire Rebuild Public Works Services.
6. Professional Services Agreement with Jensen Hughes
   Recommended Action: Authorize the City Manager to execute a Professional Services Agreement with Jensen Hughes for consultation and creation of a Community Wildfire Protection Plan.
7. Portable Generators for Temporary Power to Traffic Signals on Pacific Coast Highway
   Recommended Action: Appropriate $25,000 from the General Fund Undesignated Reserve for the purchase of portable generators and equipment to supply temporary power to the traffic signals on Pacific Coast Highway.

The following item was pulled from the Consent Calendar:

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 451

   Recommended Action: Conduct second reading, unless waived, and adopt Ordinance No. 451 determining the project is exempt from the California Environmental Quality Act and adding Chapter 9.40 to Title 9 of the Malibu Municipal Code prohibiting the installation or use of self-regenerating water softeners for properties connected to the Civic Center Water Treatment Facility; and amending Section 1.10.040 of Chapter 1.10 (Administrative Citations and Penalties) of Title 1 (General Provisions) of the Malibu Municipal Code to reflect that violations of Chapter 9.40 shall be subject to the City's administrative penalty provisions.

Public Works Director DuBoux presented the report.

Chris Layton, Culligan Water, discussed his salt water softener customers. He stated the California Regional Water Quality Control Board did not require the City to ban water softeners in the Civic Center area. He stated the City planned to ban water softeners to comply with the contract requirements for the Civic Center Water Treatment Facility (CCWTF). He stated other gadgets may be able to reduce scaling, but only a water softener could provide soft water.

Derek Soldenstzy, Culligan Water, stated removing water softeners would cause scale build-up in homes.

Arden Garver discussed the number of customers in the City using his water softener product. He indicated opposition to banning water softeners.

Colin Hedrick stated he received 10-15 calls a week from new clients seeking water softeners.

Mark Wakefield stated removing water softeners would not have a significant net effect on salinity levels.

In response to Councilmember Peak, Public Works Director DuBoux stated the CCWTF currently had high levels of solids and salinity. He stated the salinity concerns came from the original system designers. He stated approximately 40-45 parcels were included in CCWTF Phase One, but he could not say how many properties had water softeners. He stated over 400 properties were included in CCWTF Phase 2.

Councilmember Mullen suggested requiring the removal of water softeners for properties in CCWTF Phase One and assessing the effect on salinity levels before implementing a full CCWTF service area ban.

In response to Councilmember Mullen, Public Works Director DuBoux stated staff would study the ban's effect on salinity levels. He stated the draft ordinance would only ban water softeners for properties connected to the CCWTF.

In response to Councilmember Peak, Public Works Director DuBoux stated properties in CCWTF Phase Two would not connect until November 2024.

Councilmember Peak suggested approving the ordinance and directing staff to report back in two years.

In response to Councilmember Wagner, City Manager Feldman stated the

City was able to sell the recycled water generated by the CCWTF.

MOTION

Councilmember Peak moved and Councilmember Wagner seconded a motion to: 1) adopt Ordinance No. 451 determining the project is exempt from the California Environmental Quality Act and adding Chapter 9.40 to Title 9 of the Malibu Municipal Code prohibiting the installation or use of self-regenerating water softeners for properties connected to the Civic Center Water Treatment Facility; and amending Section 1.10.040 of Chapter 1.10 (Administrative Citations and Penalties) of Title 1 (General Provisions) of the Malibu Municipal Code to reflect that violations of Chapter 9.40 shall be subject to the City's administrative penalty provisions; and 2) direct staff to report back in early 2022 on effectiveness of the prohibition. The question was called and the motion carried unanimously.

B. New Items

5. Initiate Amendments to Local Coastal Program and Malibu Municipal Code to Foster Fire-resistant Landscapes Recommended Action: 1) Adopt Resolution No. 19-47 initiating amendments to the Local Coastal Program and Title 17 (Zoning) of the Malibu Municipal Code to foster creation of more fire-resistant landscapes; and 2) Direct the Planning Commission to schedule a public hearing regarding the same.

Associate Planner Cleavenger presented the staff report.

Planning Director Blue stated the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) had been presented with the concept for the ordinance, and the item before the Council was a resolution to initiate amendments to the Malibu Municipal Code (MMC).

Kraig Hill questioned why conclusions from the discussion at the ZORACES meeting were not in the staff report.

MOTION

Councilmember Peak moved and Councilmember Wagner seconded a motion to: 1) adopt Resolution No. 19-47 initiating amendments to the Local Coastal Program and Title 17 (Zoning) of the Malibu Municipal Code to foster creation of more fire-resistant landscapes; and 2) direct the Planning Commission to schedule a public hearing regarding the same.

In response to Councilmember Wagner, Planning Director Blue stated the findings from the ZORACES meeting would be included in the report for the Planning Commission.

The question was called and the motion carried unanimously.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

None.

ITEM 5 OLD BUSINESS

A. Short-Term Rentals

Recommended Action: 1) Receive financial analysis on the implications and potential impacts of a ban on short-term rentals; 2) Discuss potential options and procedures for banning short-term rentals; 3) Discuss whether an amendment to the Local Coastal Plan is necessary for a short-term rental ban; 4) Discuss approaches of other coastal cities that have legislated short-term rentals and associated litigation in those cities; and 5) Provide direction to staff on a short-term rental ordinance.

Assistant Planner Kendall presented the staff report.

Sanje Gaur, Raftelis Vice President, presented the financial analysis. He discussed expenditures related to regulating short-term rentals, including registrations revenue and some Code Enforcement costs. He stated Raftelis focused on concrete revenue and expense streams, not the trickle-down effects of banning or limiting short-term rentals. He discussed projected property tax revenue, fees, and the financial impacts of the Woolsey Fire and flood and debris mitigation due to winter storms. He discussed the City Council policy to maintain a 50% reserve of the total budget and the goal to maintain a 65% reserve. He presented the projected revenues, expenses, and fund balances for unregulated short-term rentals, banning half of the existing short-term rentals, a quarter of the existing short-term rentals, and a full ban on short-term rentals. He stated a partial or full ban on short-term rentals could have significant impacts on the City's finances. He recommended limiting the non-reimbursable, one-time costs associated with the Woolsey Fire and considering delaying capital improvement projects.

Planning Director Blue discussed the process of putting a ban in place and concerns from California Coastal Commission (CCC) staff. She stated San Francisco and Santa Monica both had ordinances in place thatlimited short-term rentals. She stated it may be more difficult to enact a ban when short-term rentals had been legitimized by collecting transient occupancy tax, establishing a registration program for transient occupancy tax, and entering into agreements with short-term rental platforms. She stated a ban would require drafting an ordinance, selecting the final date short-term rentals could operate, holding public hearings, and adopting the ordinance She stated notice would need to be provided to short-term rental operators, additional Code Enforcement staff would need to be hired, and a monitoring program would need to be developed with Host Compliance. She stated staff recommended a six-month amortization period before a ban would go into effect. She stated a ban would require a Local Coastal Program Amendment (LCPA). She stated an ordinance regulating the existing

short-term rental use and mitigating impacts may not require an LCPA. She stated CCC staff had stated all limitations on short-term rentals would require an LCPA. She stated an LCPA would need to be drafted and reviewed by ZORACES and the Planning Commission, adopted by the City Council, and then sent to the CCC for certification.

Assistant City Attorney Rusin presented the litigation and enforcement issues in the staff report. He discussed the ongoing lawsuit between the City of Del Mar and CCC over a proposed LCPA limiting the number of days a year a property could be used for short-term rentals. He stated Santa Barbara had allowed short-term rentals as an interpretation of its municipal code and was sued when the City changed the interpretation of the municipal code to disallow short-term rentals. He stated the trial court found that Santa Barbara would require an LCPA but the case had been appealed. He discussed Santa Monica's regulations limiting short-term rentals to home-sharing. He stated Santa Monica was sued and the court found Santa Monica's regulations did not discriminate against interstate commerce, Santa Monica could limit the transactions websites could process, and it was found not to violate the First Amendment. He stated Santa Monica did not have a Local Implementation Plan (LIP) and did not require an LCPA.

In response to Councilmember Wagner, Assistant City Attorney Rusin stated Santa Monica originally prohibited advertising unregistered short-term rentals and modified its regulations to only allow websites to process transactions for registered short-term rentals.

RECESS

At 5:49 p.m., Mayor Farrer recessed the meeting. The meeting resumed at 6:00 p.m. with all Councilmembers present.

Rosemary Sampson discussed the Economic Policy Institute report she had emailed to the Council.

Diana Klein indicated support for short-term rentals. She stated problem properties should be issued large fines and banned from renting. She stated short-term rental income could help people rebuild their properties after the Woolsey Fire.

Antoinette Berget she stated she had rented her property short-term since 1981 and had never received a complaint. She indicated opposition to short-term rentals used as party houses. She stated five of her customers later purchased property in the City. She recommended giving two warnings and fines to problem properties before banning them.

Ermine Guliston stated the City needed the short-term rental transient occupancy tax to improve the City.

Randy Trufle deferred his time to Sue Peck.

Doug Carroll deferred his time to Sue Peck.

Sue Peck discussed the units she rented short-term. She indicated opposition to short-term rentals used as party houses. She stated the rules at her properties were enforced and there was no noise or parties. She stated her neighborhood was zoned for both multi-family and commercial so short-term rentals did not negatively impact the neighborhood character. She stated she could support a limit on the number of units allowed to be rented in a multi-family building and she indicated support for permit requirements presented in the draft ordinance on September 26, 2018.

Martha Fling indicated support for short-term rentals and opposition to party houses. She stated another disaster could happen anytime in the City. She indicated support for fining problem properties.

Jill Van Zeebroeck stated she worked with homeowners associations and city councils on short-term rental regulations. She commended staff and the Council for including multi-family units in the draft ordinance presented on September 26, 2018.

Kyle Wolfe indicated support for short-term rentals.

Ted Vaill, Big Rock Mesa Property Owners Association, indicated support for regulating short-term rentals. He stated short-term visitors were not respectful to full-time residents. He recommended allowing short-term rentals when the owner or a full time manager was on the property. He stated the City should not count on reimbursements from the Federal Emergency Management Association (FEMA) after the Woolsey Fire.

Kym Shin stated he served on the Los Angeles County Commission of Older Adults. He stated he had not received any complaints about his short-term rental.

John Mazza discussed Council Policy No. 15. He stated short-term rentals were reducing the housing stock in the City for full-time residents. He indicated support for approving an ordinance similar to Santa Monica's. He stated the City could afford to ban short-term rentals.

John Stiegler discussed complaints to the City's short-term rental hotline. He stated few complaints had been received in the last year and most complaints were about the same properties. He indicated opposition to requiring a primary resident to be the person issued a short-term rental permit.

Marc Maniscalco discussed the multi-unit building that he lived in while he rented the other units on a short-term basis. He stated short-term rental visitors spent a lot of money at local businesses. He stated short-term rentals presented an option for housing for fire victims.

Andy Gombiner indicated opposition to banning short-term rentals. He stated he had not received any complaints regarding his short-term rental unit. He stated the City would face financial hardships if it banned short-term rentals. He stated the City received very few complaints about short-term rentals and most complaints were about the same properties.

Richard Lawrence, Malibu Township Council, stated short-term rentals were illegal. He indicated support for adopting an ordinance similar to Santa Monica's. He questioned exactly how much transient occupancy tax revenue was generated by Airbnb.

Carol Hahn indicated support for regulating short-term rentals to limit the negative impacts for neighbors. She stated one of her neighbors had to move because of the disturbances caused by a short-term rental next door. She stated many people were sleeping in cars or campers along PCH and some campers were being rented as short-term rentals.

Larry Stuppy discussed his family's home held in a family trust. He stated short-term rentals allowed the family to pay for property taxes and maintenance. He stated the City needed to enforce current laws regarding nuisances. He requested his property be grandfathered into any new regulations that would require a primary resident to be the person issued a short-term rental permit.

Joey Goodman deferred his time to Joanne Gary.

Jeff Follert deferred his time to Joanne Gary.

Joanne Gary discussed a property in her neighborhood that was being used as a short-term rental. She stated the property was not being properly managed and it had a negative impact on the neighborhood character. She stated she had contacted Code Enforcement many times. She presented a video of cars parked illegally, litter, an ambulance responding to a medical crisis, and someone urinating on the street.

Graeme Clifford stated the City's post-Woolsey Fire financial difficulties were temporary. He stated financial constraints could be overcome with careful budgeting. He stated the Council should consider residents' opinions more heavily than non-residents. He discussed the City's mission statement.

Anne Payne stated the City incorporated because the residents wanted more local control. She discussed hotel projects proposed in the City in the past. She indicated support for hotels in commercial zones if the City needed to collect more transient occupancy tax. She stated commercial uses should not be allowed in residential zones.

Lea Johnson deferred her time to Scott Dittrich.

Scott Dittrich discussed the non-financial negative impacts of short-term rentals negatively affecting neighborhood character. He stated short-term renters did not look after their neighbors. He stated Code Enforcement Officers needed to work on weekends to enforce short-term rental regulations. He indicated support for requiring the owner or manager to be onsite, banning yurts and campers, limiting short-term rentals to one unit per property, collecting transient occupancy tax from all rental sites, and limiting the number of multi-family units that could be used as short-term rentals on a property to 10 percent.

Judy Villablanca indicated support for Scott Dittrich's comments. She stated short-term renters did not look after their neighbors like long-term residents did. She stated short-term renters would not be prepared for emergencies in the City. She stated short-term rentals limited the number of properties available for long-term rentals. She indicated support for an ordinance similar to Santa Monica's.

Don Tallegson stated he had never received any complaints about his short-term rental. He questioned what type of regulations the Council would consider to limit short-term rentals. He stated his property was near a commercial zone. He stated there needed to be a long grace period to allow short-term rentals to transition to long-term rentals. He stated short-term rentals increased access for visitors to the coast. He stated visitors spent money at local businesses.

Judy Pace deferred her time to Lucile Keller.

Druann Jacobson deferred her time to Lucile Keller.

Lucile Keller, Lechuza Highlands Property Owners Association, indicated support for banning short-term rentals in residential zones. She stated short-term renters would not be prepared for emergencies in the City. She stated hotels, motels, and bed and breakfasts were only allowed in commercial zones. She stated short-term rentals were a commercial use and not similar to long-term rentals. She indicated opposition to short-term rentals owned by large corporations.

Chris Frost deferred his time to Kraig Hill.

Kraig Hill indicated support for Lucile Keller's comments. He stated short-term rentals were not legal in residential zones. He stated short-term rentals could have a negative impact on neighborhood property values. He stated the Raftelis financial report did not consider the non-financial negative impacts of short-term rentals. He indicated support for adopting an ordinance similar to Santa Monica's.

Beate Nusen deferred her time to Michael Lustig.

Cassandra Clamsson deferred her time to Michael Lustig.

Sharon Barovsky deferred her time to Michael Lustig.

Lance Simmens deferred his time to Michael Lustig.

Louis Spirito deferred his time to Michael Lustig.

Jim Palmer deferred his time to Michael Lustig.

Michael Lustig, Malibu Road Association, discussed the regulations proposed in the petition he submitted. He stated short-term rentals negatively impacted the quality of life of most residents. He stated Airbnb tried to prevent cities from implementing effective ordinances. He stated there was no way to enforce the number of days properties were allowed to be rented as a short-term rental. He indicated support for adopting regulations similar to Santa Monica's.

Annie Ellis stated short-term rentals were a commercial use. She stated her neighborhood had 14 houses with many elderly residents. She stated her parents voted for incorporation to prevent the installation of a sewage system. She stated a guest house in her neighborhood was disturbing the neighbors.

Dick Guttman was not present at the time of the hearing.

Ellen Coopa deferred her time to John Payne.

John Payne was not present at the time of the hearing.

Ken Ehrlich stated many properties were being advertised in Malibu Colony as short-term rentals where the renters could see celebrity neighbors. He recommended banning short-term rentals in specific neighborhoods. He indicated support for requiring the owner to be onsite.

Susan Harris deferred her time to Bruce Gipe.

Bruce Gipe was not present at the time of the hearing.

Fred Gaines discussed a report from the California State Auditor which ranked the fiscal health of all cities in California. He stated the report described Malibu's financial risks, inadvertently flat revenue projections and debt. He stated the financial concerns related to short-term rentals were more complex than the Raftelis report indicated. He recommended creating regulations to limit bad actors. He stated short-term rentals were more appropriate in some neighborhoods than others.

Steve Uhring stated short-term rentals could have adverse impacts on the community. He stated the California Coastal Act did not preempt local regulations. He indicated support for adopting an ordinance similar to Santa Monica's.

Nicholas Hale was not present at the time of the hearing.

Lloyd Ahern stated quality of life was important. He discussed parking problems as a result of short-term rentals. He stated enforcement was important.

BJ Pike stated other cities that regulated short-term rentals did not have the unique issues that Malibu had. She requested properties owned in family trusts be grandfathered into any new short-term rental regulations. She stated she was considering firescaping her short-term rental property.

Daniel Cislo, Winding Way homeowners association, stated a property on his street was rented as a short-term rental by an owner in Sweden. He indicated support for adopting an ordinance similar to Santa Monica's. He recommended increasing transient occupancy tax.

Roderigo Iglesias indicated support for short-term rentals. He recommended requiring short-term rental units be rented for at least two nights.

Norm Haynie indicated support for Anne Payne's, Scott Dittrich's, Lucile Keller's, Kraig Hill's and John Mazza's comments. He stated commercial uses should stay in commercial zones.

Lynn Norton indicated support for adopting an ordinance similar to Santa Monica's. She stated long-term residents looked after each other. She stated short-term rentals had a negative impact on neighborhood property values.

Charlie Stiegler discussed the property he and his brother inherited from their parents. He stated it made more sense for his family to rent the property short-term than to live in it full-time. He indicated opposition to requiring the primary resident to live onsite in order to rent it out on a short-term basis.

Marianne Riggins stated long-term tenants did not necessarily have school-aged children. She stated banning short-term rentals would not prevent bad neighbors. She indicated support for large fines for violations of short-term rental regulations. She stated filming, photography, and long-term rentals were all commercial uses allowed in residential zones.

Martin Beaucivage indicated opposition to restricting short-term rentals.

Sally Morales indicated opposition to restricting short-term rentals.

Nancy Suminski indicated support for regulating short-term rentals.

Gary Eisenberger indicated opposition to restricting short-term rentals.

Bruce Gipe indicated support for regulating short-term rentals.

Ryan Embree stated the Council needed to maximize the resident's quality of life. He stated the Raftelis financial report did not consider all of the Code

Enforcement costs or property value decreases caused by short-term rentals. He stated the film permit regulations were very strict after filming in the City got out of control. He stated private enforcement needed to be authorized in the MMC so homeowners associations could have problem properties shut down.

Councilmember Mullen stated he attended a League of California Cities conference session on short-term rentals. He stated the City was not dependent on transient occupancy tax revenue. He stated the City could learn from the regulations approved and challenged in other cities. He indicated support for banning short-term rentals and he expressed concern that a full ban could lead to extensive litigation. He stated the Santa Monica ordinance was an example of a good compromise. He stated the Raftelis financial report was intended to study financial impacts of limiting short-term rentals and did not study the impacts on quality of life.

In response to Councilmember Mullen, Assistant City Attorney Rusin state Santa Monica did not have an LIP, and if the City approved an ordinance that resulted in a land use change, it would need to process an LCPA.

In response to Councilmember Wagner, Assistant City Attorney Rusin stated approving a zone text amendment (ZTA) without an LCPA would be subject to legal challenge. He stated a change in land use would require an LCPA.

Councilmember Mullen expressed sympathy for families that may not be able to keep family homes without short-term rental income. He stated those homes could not contribute to the community if there was not a full-time resident.

In response to Councilmember Mullen, Assistant City Attorney Rusin stated one key difference between the draft ordinance presented on September 26, 2018, and Santa Monica's ordinance was that Santa Monica required the resident to be onsite. He stated the Council could consider a full ban on short-term rentals in the future after trying regulations, but it would face the same requirements of an LCPA and potential legal challenges.

Councilmember Mullen indicated support for passing an ordinance with an effective date just before or after summer 2020.

In response to Councilmember Wagner, City Manager Feldman stated the FEMA reimbursement in the Raftelis report had been approved by FEMA, but the timing of the reimbursements had not been settled. Assistant City Attorney Rusin stated the litigation against Southern California Edison was ongoing and staff could not estimate what, if any, settlement might be reached. City Manager Feldman stated financial forecasts had many variables, but staff worked with the consultant to prepare a conservative report. She stated staff could update the forecast with new data as it became available.

Councilmember Wagner stated settlements from the lawsuit with Southern California Edison should be included in the financial forecast. He stated the Santa Monica ordinance was an example of a good compromise.

Mayor Pro Tem Pierson thanked the public for submitting correspondence and speaking at the meeting. He stated his campaign platform included only allowing short-term rentals when they were rented by the primary resident. He stated he had been told home-sharing was more enforceable. He expressed sympathy for families that may not be able to keep family homes without short-term rental income.

In response to Mayor Pro Tem Pierson, Assistant City Attorney Rusin stated some Code Enforcement costs for new officers could probably be amortized in the registration fees for a short-term rental program.

Mayor Pro Tem Pierson expressed concern that an ordinance similar to Santa Monica's would prohibit families from renting their houses for a few weeks a year when they are on vacation.

Mayor Farrer discussed the draft ordinance presented at the September 26, 2018 City Council meeting. She indicated support for the three categories of short-term rental permits in the September 26, 2018 draft ordinance. She expressed concern that families may not be able to keep family homes without short-term rental income. She stated it was important to come to a decision at this meeting.

In response to Mayor Farrer, Planning Director Blue stated an LCPA would take approximately 12 months or more to process. She stated the Council would need to initiate the LCPA, hearings would need to be held by ZORACES and the Planning Commission, the LCPA and ordinance would need to be approved by the Council, and then the LCPA would need to be submitted to the CCC for certification. She stated the CCC may send the LCPA back to the City with suggested modifications.

Mayor Farrer indicated support for the three types of short-term rental permits unique to the property type and the entity renting the property included in the September 26, 2018 draft ordinance. She stated the regulations for each type of permit were tailored to mitigate negative impacts on the neighbors.

Councilmember Peak indicated support for passing an ordinance similar to Santa Monica's. He stated short-term rentals could put a strain on septic systems. He indicated support for requiring short-term rentals to have onsite wastewater treatment system (OWTS) operating permits.

Mayor Pro Tem Pierson indicated support for requiring short-term rentals to have OWTS operating permits.

Councilmember Mullen indicated support for requiring short-term rentals to have OWTS operating permits. He recommended the Council combine elements from the September 26, 2018 draft ordinance and the Santa Monica ordinance.

Assistant City Attorney Rusin suggested the Council identify the specific elements from the September 26, 2018 draft ordinance it would like incorporated into a home-sharing ordinance.

Councilmember Peak indicated support for requiring the short-term rental permit to be issued to a property owner who was the primary resident.

Councilmember Mullen indicated support for requiring the short-term rental permit to be issued to a property owner who was the primary resident.

Mayor Pro Tem Pierson indicated support for requiring the short-term rental permit to be issued to a property owner who was the primary resident.

In response to Councilmember Wagner, Councilmember Peak stated in order to be eligible for a short-term rental permit, a property should be required to have an OWTS operating permit.

In response to City Manager Feldman, Councilmember Peak stated the definition of primary resident should be similar to language in the September 26, 2018 draft ordinance, but it should be updated based on the results of lawsuits regarding short-term rental regulations.

Councilmember Mullen indicated support for modifying the definition of primary resident based on the results of lawsuits regarding short-term rental regulations.

Councilmember Peak stated the owner should be required to be onsite.

In response to City Manager Feldman, Councilmember Mullen stated the primary resident should be onsite during a short-term rental stay, but they did not have to be in the same unit.

In response to Mayor Farrer, City Manager Feldman state approximately 5-10 percent of the units currently used for short-term rentals would be accessory dwelling units where the primary owner could be onsite in a different building.

Councilmember Peak stated the short-term rental permit should be required to be renewed in conjunction with the OWTS operating permit.

In response to Councilmember Peak, Planning Director Blue stated an OWTS operating permit was renewed every five years and an advanced OWTS operating permit was renewed every three years.

In response to Councilmember Wagner, Councilmember Peak stated a multi-family OWTS was required to have operating permits. He stated any unit that was part of a development with an OWTS operating permit would be eligible for short-term rentals.

Assistant City Attorney Rusin stated staff would look into options for a short-term rental permit to run along side an OWTS permit.

Councilmember Peak indicated support for requiring the onsite parking requirements in the September 26, 2018 draft ordinance.

In response to Councilmember Mullen, Councilmember Peak stated no distribution of the owner's contact information should be required.

Mayor Farrer indicated support for not requiring the distribution of the owner's contact information.

Councilmember Peak indicated support for requiring the owner to be onsite, provide contact information to the City, and deal with any problems at the short-term rental property 24 hours a day, seven days a week.

Mayor Farrer stated the Council would need to consider how to adjust future budgets based on a reduction in transient occupancy tax revenue.

Councilmember Peak stated the Council was ready to make budget adjustments as necessary, and some short-term rental operators may modify their business practices so they could continue renting under the new regulations.

Councilmember Peak stated the property owner could designate an agent to be onsite during a short-term rental stay. He stated the property owner would be required to be a primary resident at the property being rented.

Councilmember Wagner expressed concern that the property owner may never be onsite if they were allowed to designate an agent.

Mr. Lustig recommended allowing the primary resident to designate a third party to be onsite when they are not available.

Councilmember Peak indicated support for requiring the owner or owner's agent to grant City representatives access to the property and records if needed for inspection or audit. He indicated support for requiring the owner to provide a short-term rental code of conduct to all guests.

Councilmember Mullen indicated support for requiring the owner to provide a short-term rental code of conduct to all guests.

Councilmember Peak indicated support for limiting the maximum number of occupants based on the number of bedrooms in the house.

Assistant City Attorney Rusin suggested only allowing short-term rental websites to process transactions for properties on the approved list of permitted short-term rentals.

Councilmember Peak indicated support for Assistant City Attorney Rusin's suggestion.

Councilmember Peak indicated support for denying or revoking a short-term rental permit if the applicant was found to have knowingly made false statements in the application.

Councilmember Mullen indicated support for denying or revoking a short-term rental permit if the applicant was found to have knowingly made false statements in the application.

Mayor Farrer indicated support for denying or revoking a short-term rental permit if the applicant was found to have knowingly made false statements in the application.

Councilmember Peak indicated support for denying or revoking a short-term rental permit if the property owner was found to have not paid transient occupancy tax due, had outstanding code violations, did not comply with all applicable codes, was not in a condition to be rented on a short-term basis, or if the property had received more than two citations for noise violations within a consecutive twelve-month period.

Councilmember Mullen indicated support for denying or revoking a short-term rental permit if the property owner was found to have not paid transient occupancy tax due, had outstanding code violations, did not comply with all applicable codes, was not in a condition to be rented on a short-term basis, or if the property had received more than two citations for noise violations within a consecutive twelve-month period.

Mayor Farrer indicated support for denying or revoking a short-term rental permit if the property owner was found to have not paid transient occupancy tax due, had outstanding code violations, did not comply with all applicable codes, was not in a condition to be rented on a short-term basis, or if the property had received more than two citations for noise violations within a consecutive twelve-month period. She indicated support for denying or revoking a short-term rental permit if a total of three citations for violation of any combination of the following requirements occurred within a consecutive twelve-month period: parking, responsiveness, access, posting of the Code of Conduct, maximum occupancy, and listing the permit number on all advertisements.

Councilmember Peak indicated support for denying or revoking a short-term rental permit if a total of three citations for violation of any combination of the following requirements occurred within a consecutive twelve-month period: parking, responsiveness, access, posting of the Code of Conduct, maximum occupancy, and listing the permit number on all advertisements.

Mayor Farrer indicated support for explicitly prohibiting short-term rental of any vehicle, trailer, tent, storage shed, garage, or other such premises.

In response to Mayor Farrer, Assistant City Attorney Rusin stated the September 26, 2018 draft ordinance included a provision requiring that the operator of a short-term rental in a multi-family building attest that the other units were being rented on a long-term basis.

In response to Councilmember Peak, Planning Director Blue stated the September 26, 2018 draft ordinance allowed up to two units to be rented as short-term rentals in a multi-family building with at least three units.

Mayor Farrer indicated support for approving the multi-family regulations as proposed in the September 26, 2018 draft ordinance.

Mr. Luskin recommended limiting multi-family buildings to one short-term rental unit per building with five or fewer units and allowing up to 20% of the units to be short-term rentals in buildings with more than five units.

In response to Councilmember Peak, Ms. Peck stated she rented two units as short-term rentals in each of her buildings with six units, and she rented three units as short-term rentals in her building with twelve units.

Councilmember Peak indicated support for approving the multi-family regulations as proposed in the September 26, 2018 draft ordinance.

Mayor Pro Tem Pierson indicated support for approving the multi-family regulations as proposed in the September 26, 2018 draft ordinance.

Councilmember Mullen indicated support for a regulation that stated after an application was denied, a new application could not be approved for twelve months for that applicant and location.

Mayor Farrer indicated support for a regulation that stated after an application was denied, a new application could not be approved for twelve months for that applicant and location. She indicated support for requiring short-term rental of a property to cease immediately if a permit was revoked and not allowing permitting for a period of twelve months from the date of revocation.

Councilmember Mullen indicated support for requiring short-term rental of a property to cease immediately if a permit was revoked and not allowing permitting for a period of twelve months from the date of revocation.

Councilmember Peak indicated support for an applicant being ineligible to conduct short-term rental of property for an additional six-month period for each such rental after denial or revocation of a short-term rental permit.

Councilmember Mullen indicated support for creating an appeal process for the denial or revocation of a short-term rental permit.

In response to Councilmember Peak, Assistant City Attorney Rusin suggested the fine for violations be $1,000 a day or the daily rate of the unit, whichever was higher.

Mayor Farrer indicated support for a fine of $1,000 a day or the daily rate of the unit, whichever was higher. She indicated support for requiring the short-term rental permit holder to be responsible for administrative citations for violations of the MMC committed by guests at the property.

In response to Councilmember Peak, Assistant City Attorney Rusin stated the Council could require the short-term rental permit holder to be responsible for administrative citations for violations of the MMC committed by guests at the property.

Councilmember Mullen indicated support for considering each violation of the short-term rental ordinance as a separate offence for each and every day the violation occurred or persisted.

Mayor Farrer indicated support for considering each violation of the short-term rental ordinance as a separate offence for each and every day the violation occurred or persisted.

Councilmember Peak indicated support for directing the new ordinance to bypass ZORACES.

Councilmember Wagner indicated support for directing the new ordinance to bypass ZORACES.

Councilmember Mullen indicated support for directing the new ordinance to bypass ZORACES.

Mayor Pro Tem Pierson indicated support for directing the new ordinance to bypass ZORACES.

Mayor Farrer indicated support for directing the new ordinance to bypass ZORACES.

Councilmember Peak indicated support for the ordinance effective date to be within 3-6 months of the CCC's certification of the LCPA.

City Manager Feldman suggested the Council consider creating a temporary permit program that would not require an LCPA and would give staff some enforcement tools.

In response to Councilmember Peak, Assistant City Attorney Rusin stated the City did not currently have a permit program to enforce. He stated Council could direct staff to look into increasing fines for nuisance violations.

Councilmember Wagner stated the City needed regulations the Los Angeles County Sheriff's Department could enforce.

In response to Mayor Farrer, Mr. Lustig stated he was not aware of any City approving an interim ordinance for short-term rental regulations.

In response to Councilmember Mullen, Assistant City Attorney stated the ZTA would be contingent on the LCPA certification.

Councilmember Wagner indicated support for approving a home-sharing ordinance without an LCPA.

In response to Mayor Farrer, Assistant City Attorney Rusin stated an ordinance limiting short-term rentals to home-sharing would be a significant change in use. He recommended initiating an LCPA when it was required instead of waiting for a lawsuit.

In response to Planning Director Blue, Assistant City Attorney Rusin stated the Council could approve a ZTA similar to the one presented on September 26, 2018, and then process a ZTA and LCPA limiting short-term rentals to home-sharing.

Mr. Mazza stated short-term rentals were not allowed in commercial or multi-family zones.

Assistant City Attorney Rusin stated it would be difficult to enforce a prohibition on short-term rentals in multi-family units without a ZTA.

In response to Councilmember Peak, Assistant City Attorney Rusin stated the interim ZTA and home-sharing ZTA could be processed concurrently. He stated the interim ordinance had already been heard by the Planning Commission and a substantially similar ordinance could be brought back directly to the Council.

Councilmember Peak indicated opposition to an interim ZTA.

Mayor Farrer indicated support for an interim ZTA.

Councilmember Wagner indicated support for an interim ZTA.

In response to Councilmember Mullen, Mr. Hill stated a ZTA with an LCPA would have a built-in amortization period while CCC considered the LCPA.

Mayor Pro Tem Pierson indicated support for an ordinance effective date six months after approval.

Mayor Farrer indicated support for an ordinance effective date six months after approval.

Councilmember Wagner stated an effective date six months after approval could be before summer 2020 if the ordinance was approved quickly.

Councilmember Peak stated the Council could approve an interim ordinance, but it was more important to focus on the final ordinance.

Councilmember Wagner stated it was important to have interim regulations.

Mayor Pro Tem Pierson indicated support for an interim ZTA.

MOTION Councilmember Wagner moved and Mayor Pro Tem Pierson seconded a motion to direct staff to: 1) initiate a Zoning Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals per direction provided by Council including adopting provisions similar to Santa Monica's home-sharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and 2) bring back an updated version of the September 26, 2018 draft ordinance to the City Council for adoption, with the understanding it would be superseded when the new ZTA and LCPA were approved. The question was called and the motion carried 4-1, Councilmember Peak opposed.

Mr. Stuppy stated his short-term rental was only rented to afford the property taxes and maintenance and was used by his family the rest of the year.

ITEM 2.A. PUBLIC COMMENTS (continued)

Joe D'Amore discussed the financial challenges his restaurant had faced since the Woolsey Fire. He requested Malibu Strong signs be installed to promote local businesses.

Mayor Pro Tem Pierson thanked Mr. D'Amore for his comments and stated he was also concerned about local businesses.

ITEM 6 NEW BUSINESS

None.

ITEM 7 COUNCIL ITEMS

A. Clean Power Alliance Default Selection (Councilmember Peak)

Recommended Action: At the request of Councilmember Peak, 1) Approve selection of the 100% Tier Option for Clean Power Alliance customers within the City; and 2) Direct staff to work with Clean Power Alliance staff on an implementation plan.

Councilmember Peak presented the report.

In response to Councilmember Mullen, Clean Power Alliance (CPA) Executive Director Ted Bardacke stated the 100% Tier Option would cost 9% more than the 50% Tier Option but customers could opt to use a different tier level. He stated customers who had already voluntarily selected a different tier level would remain at that level.

Ryan Embree indicated opposition to approving selection of the 100% Tier Option for CPA customers within the City.

In response to Councilmember Wagner, Mr. Bardacke stated all customers would still have the option of opting out or opting down to a different tier.

In response to Councilmember Mullen, Mr. Bardacke stated customers could change their selection online or over the phone. He stated Malibu would be the first City to change its default tier selection and CPA was still developing the notification requirements and other aspects of implementation. He stated 10 out of 31 agencies had selected the 100% Tier Option.

Mayor Farrer stated it was important to advertise the option to opt down to a different tier.

MOTION Councilmember Peak moved and Mayor Pro Tem Pierson seconded a motion to: 1) approve selection of the 100% Tier Option for Clean Power Alliance customers within the City; and 2) direct staff to work with Clean Power Alliance staff on an implementation plan. The question was called and the motion carried 4-1, Councilmember Mullen opposed.

B. Full and Fair Funding of Public Schools (Mayor Farrer)

Recommended Action: At the request of Mayor Farrer, adopt Resolution No. 19-46 calling for full and fair funding of California schools and urging the State Legislature to fund California public schools at the national average or higher by the year 2020, and at a level that is equal to or above the average of the top 10 states nationally by 2025, and to maintain, at a minimum, this level of funding

until otherwise decreed.

Mayor Farrer presented the report.

MOTION Councilmember Mullen moved and Councilmember Peak seconded a motion to adopt Resolution No. 19-46 calling for full and fair funding of California schools and urging the State Legislature to fund California public schools at the national average or higher by the year 2020, and at a level that is equal to or above the average of the top 10 states nationally by 2025, and to maintain, at a minimum, this level of funding until otherwise decreed. The question was called and the motion carried unanimously.

ADJOURNMENT

At 9:47 p.m., Mayor Farrer adjourned the meeting in memory of Andy Cohen.

Approved and adopted by the City Council of the City of Malibu on November 25, 2019.

Karen Farrer
KAREN FARRER, Mayor

ATTEST:

Heather Glaser
HEATHER GLASER, City Clerk
(seal)

Malibu City Council
Special Meeting Agenda

Tuesday, December 3, 2019

5:00 P.M. – SPECIAL CITY COUNCIL MEETING
City Hall – Council Chambers
23825 Stuart Ranch Road

Five p.m. **Regular Session**

Call to Order - Mayor

Roll Call - Recording Secretary

Pledge of Allegiance

Approval of Agenda

Report on Posting of Agenda – November 20, 2019

1. Ordinances and Public Hearings

A. Short-Term Rentals Ordinance

Recommended Action: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 458 amending Title 17 (Zoning) of the Malibu Municipal Code and adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act; 2) Direct staff to schedule second reading and adoption of Ordinance No. 458 for the January 13, 2020 Regular City Council Meeting; 3) Adopt Resolution No. 19-53 initiating a Local Coastal Program (LCP) Amendment and zoning text amendment to consider changes to the Malibu LCP and Title 17 (Zoning) of the Malibu Municipal Code to regulate the short-term rental of residential property; and 4) Direct the Planning Commission to schedule a public hearing regarding the same.

Staff Contact: Assistant Planner Kendall, 456-2489, ext. 301

Adjournment

Future Meetings

Monday, December 9, 2019	6:30 p.m.	Regular City Council Meeting	City Hall Council Chambers
Monday, December 23, 2019		CANCELLED	
Monday, January 13, 2020	6:30 p.m.	Regular City Council Meeting	City Hall Council Chambers

Guide to the City Council Proceedings

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the attention of the City after the posting of the agenda. Although no action may be taken, the Council and staff will follow up, at an appropriate time, on those items needing response. Each speaker is limited to three (3) minutes. Time may be surrendered by deferring one (1) minute to another speaker, not to exceed a total of eight (8) minutes. The speaker wishing to defer time must be present when the item is heard. In order to be recognized and present an item, each speaker must complete and submit to the Recording Secretary a Request to Speak form prior to the beginning of the item being announced by the Mayor (forms are available outside the Council Chambers) and must be accompanied by all forms deferring time at the time of submission. Speakers are taken in the order slips are submitted.

Items in Consent Calendar Section A have already been considered by the Council at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Council. If discussion is desired, an item may be removed from the Consent Calendar for individual consideration. Councilmembers may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from the Consent Calendar will be taken up by the Council following the action on the Consent Calendar. The Council first will take up the items for which public speaker requests have been submitted. Public speakers shall follow the rules as set forth under Oral Communication.

For Public Hearings involving zoning matters the appellant and applicant will be given 15 minutes each to present their position to the City Council, including rebuttal time. All other testimony shall follow the rules as set forth under Oral Communication.

Old Business items have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Public comment shall follow the rules as set forth under Oral Communication.

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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 20th day of November 2019 at 6:15 p.m.

Heather Glaser, City Clerk

Amended[1] Malibu City Council
Special Meeting Agenda

Tuesday, December 3, 2019

4:30 P.M. - CLOSED SESSION
City Hall – Council Chambers (call to order)
Westward Room (closed session)
23825 Stuart Ranch Road

5:00 P.M. – SPECIAL CITY COUNCIL MEETING
City Hall – Council Chambers
23825 Stuart Ranch Road

Four-thirty p.m. Convene for Purpose of Closed Session

Call to Order – Mayor (Council Chambers)

Public Comment on Closed Session Items

Recess to Closed Session (to be held in the Westward Room)
This time has been set aside for the City Council to meet in a closed session to discuss matters pursuant to Government Code Section 54956.9(d)(2). Based on the advice of the City Attorney, discussion in open session concerning these matters would prejudice the position of the City in this litigation. The City Attorney will give an additional oral report regarding the Closed Session at the beginning of the next regular City Council meeting. At the conclusion of the Closed Session, the Council may continue any item listed on the Closed Session agenda to the Open Session agenda for discussion or to take formal action as it may deem appropriate.

Conference with Legal Counsel — Anticipated litigation

1. *Significant exposure to litigation pursuant to Government Code ~54956.9(d)(2)*
   Number of Cases: 1
   Letter dated October 25, 2019, from Milton Grimes regarding threat of litigation under California Voting Rights Act of 2001

Five p.m. **Regular Session**

Call to Order - Mayor

Roll Call - Recording Secretary

Pledge of Allegiance

Closed Session Report

Approval of Agenda

1 See addition of Closed Session and New Business Item No. 2.A.

Report on Posting of Agenda – November 20, 2019; *Amended Agenda posted November 26, 2019*

1. Ordinances and Public Hearings

A. Short-Term Rentals Ordinance

Recommended Action: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 458 amending Title 17 (Zoning) of the Malibu Municipal Code and adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act; 2) Direct staff to schedule second reading and adoption of Ordinance No. 458 for the January 13, 2020 Regular City Council Meeting; 3) Adopt Resolution No. 19-53 initiating a Local Coastal Program (LCP) Amendment and zoning text amendment to consider changes to the Malibu LCP and Title 17 (Zoning) of the Malibu Municipal Code to regulate the short-term rental of residential property; and 4) Direct the Planning Commission to schedule a public hearing regarding the same.

Staff Contact: Assistant Planner Kendall, 456-2489, ext. 301

2. New Business

A. Resolution of City of Malibu v. Southern California Edison (Woolsey Fire Litigation)

Recommended Action: Consider final agreement memorializing the settlement approved in concept in City of Malibu v. Southern California Edison (Woolsey Fire litigation).

Staff Contact: City Attorney Hogin, 456-2489, ext. 228

Adjournment

Future Meetings

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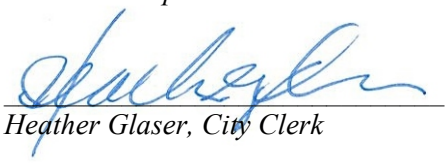
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I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted in accordance with the applicable legal requirements. Special meeting agendas may be amended up to 24 hours in advance of the meeting. Dated this 26th day of November 2019 at 4:45 p.m.



Heather Glaser, City Clerk

Special Meeting
12-03-19
Item 1.A.

Council Agenda Report

To: Mayor Farrer and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Approved by: Reva Feldman, City Manager

Date prepared: November 19, 2019 Meeting date: December 3, 2019

Subject: Short-Term Rentals Ordinance

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 458 (Attachment 1) amending Title 17 (Zoning) of the Malibu Municipal Code and adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act; 2) Direct staff to schedule second reading and adoption of Ordinance No. 458 for the January 13, 2020 Regular City Council Meeting; 3) Adopt Resolution No. 19-53 (Attachment 2) initiating a Local Coastal Program (LCP) amendment and zoning text amendment to consider changes to the Malibu LCP and Title 17 (Zoning) of the Malibu Municipal Code (MMC) to regulate the short-term rental of residential property; and 4) Direct the Planning Commission to schedule a public hearing regarding the same.

FISCAL IMPACT: In Fiscal Year 2017-2018 the City collected $2.42 million from Transient Occupancy Tax (TOT) of short-term residential rentals, and in Fiscal Year 2018-2019 the City anticipates it will collect $2.46 million (unaudited). Ordinance No. 458 is anticipated to reduce the TOT collected from short-term residential rentals, but the extent of this decrease cannot be determined at this time. The proposed home-sharing LCP amendment and zoning text amendment could have a more significant impact on TOT revenue and code enforcement expenses.

The proposed ordinance provides for a new permit with an associated fee. Staff will return to Council with a revised Fee Schedule and necessary budget amendments to revenue and expenses as part of the mid-year budget process in January 2020.

WORK PLAN: This item was included as item 4d in the Adopted Work Plan for Fiscal Year 2019-2020.

DISCUSSION: On July 9, 2018, the Council held a public hearing on options for regulating short-term rentals. The agenda report (Attachment 3) summarized the Planning Commission's comments and attached the Planning Commission's recommendation. The report also provided a draft ordinance prepared by staff based on previous direction from the Council, the Zoning Ordinance Revisions and Code Enforcement Subcommittee, and the Planning Commission proposing a short-term rental permit (STR Permit) system. At the conclusion of its deliberations, Council expressed consensus approving all but two of the 24 main points summarized in the agenda report regarding the proposed ordinance. Specifically, Council requested changes to the proposed parking regulations and the prohibition of short-term rentals in multifamily buildings. In addition, Council requested that staff research and bring back options for establishing primary residence requirements, developing special exemptions from primary residence requirements, regulating rentals in condominiums, requiring Onsite Wastewater Treatment System (OWTS) operating permits for short-term rental properties, determining permit fees, processing permit applications, phasing in the permit system, and enforcement tools. The item was continued to September 26, 2018, with direction to staff to return with a revised ordinance.

On September 26, 2018, the Council was presented with a short-term rental ordinance (Attachment 4) that addressed all the concerns Council raised on July 9, 2018. Council reviewed the draft ordinance and directed staff to return with:

1) Potential options and procedures for banning short-term rentals in the City
2) The implications and potential impacts of a ban, including financial analysis
3) Approaches to using the Local Coastal Program Amendment process
4) The approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

On October 28, 2019, the Council reviewed financial and legal analysis of the impact of a short-term rental ban and the procedures required to adopt one. After public testimony and discussion, Council directed staff to:

1) Initiate a Zoning Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) that would regulate short-term rentals per direction provided by Council including adopting provisions similar to Santa Monica's home-sharing ordinance for single-family homes and other provisions from the ordinance considered by the Council on September 26, 2018, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission
2) Bring back an updated version of the September 26, 2018, draft ordinance to the City Council for adoption, with the understanding it would be superseded when the new ZTA and LCPA were approved. The staff report from the October 28, 2019 is provided as Attachment 5.

Ordinance No. 458 establishes a STR permit system with three types of permits: primary resident, non-primary resident and multifamily with different permit requirements and permissions for each permit type that must be renewed annually. In general, the permit requirements and permissions proposed were stricter for non-primary resident permits and multifamily permits than primary residents to minimize impacts and nuisance issues and preserve neighborhood character.

The following is a summary of the key points of Ordinance No. 458 and the STR permit system:

- Limits individuals to one active STR permit
- Requires a 24/7 contact that can address STR issues
- Establishes maximum occupancy rates based on the number of bedrooms
- Establishes parking restrictions
- Requires a valid OWTS Operating Permit for the property
- Establishes that permits may be denied or revoked if:
    - The property has received more than 2 citations for violation of the City's noise ordinance within a twelve-month period
    - The property has received more than 2 citations for violation of permit requirements within a twelve-month period
    - The property has outstanding code violations
    - The property doesn't comply with all applicable safety codes, laws or ordinances
- Requires that applicants provide proof to demonstrate primary residency and claim the property as a primary residence for at least 185 days per year

The ordinance also placed additional restrictions on non-primary residents and in multifamily properties including:

- Non-primary resident permits would only allow the short-term rental of property between April 1 and September 30
- Multifamily permits would allow a maximum of two units to be rented on a multifamily property (but only if all other units are rented on a long-term basis)
- Non-primary resident permits and multifamily permits can be revoked or denied for 2 citations/violations instead of 3

Under this system, if a permit is denied or revoked, the short-term rental of property must cease immediately and shall not be permitted for 12 months. The short-term rental of property during this period would result in additional penalties, including an extension of the period during which short term rentals are prohibited on the property.

In response to the City's proposed ordinance, the California Coastal Commission (CCC) staff wrote a letter to the City dated September 20, 2018 stating that the "Commission staff views the City's proposed amendment as a supportable effort to provide for some regulatory controls and management provisions for short-term rentals" (Attachment 6). The draft ordinance does not change the uses in the City but rather adds regulations designed to limit negative impacts the City and its' residents have experienced from short-term rentals while aiding enforcement. The ordinance is proposed to become effective on June 1, 2020.

The ZTA and LCPA that will be initiated by Resolution No. 19-53 will encompass many of the features of Ordinance No. 458 but will limit short-term rental use to home-sharing, borrowing from the features of Santa Monica's ordinance. After Council adopts Resolution No. 19-53, an LCPA and related ZTA will be presented to the Planning Commission before being presented to Council for approval. If approved by the Council, the Draft LCPA would then be submitted to the CCC for certification.

PUBLIC NOTICE: On November 7, 2019, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties; and all owners/operators currently registered with the City's TOT Program (Attachment 7). In addition, posts were made on the City's social media platforms and print ads were published in the local newspapers.

ATTACHMENTS:

1. Ordinance No. 458
2. Resolution No. 19-53
3. July 9, 2018 City Council Staff Report
4. September 26, 2018 City Council Staff Report
5. October 28, 2019 City Council Staff Report
6. September 20, 2018 Letter from California Coastal Commission staff
7. Notice of Public Hearing

ORDINANCE NO. 458

AN ORDINANCE OF THE CITY OF MALIBU AMENDING TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE AND ADDING CHAPTER 17.55 (SHORT-TERM RENTAL ORDINANCE) TO ESTABLISH PROVISIONS TO REGULATE SHORT-TERM RENTAL OF PROPERTY CITYWIDE AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby ordain 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 platforms 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, 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on 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 in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of

property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition. The Commission further recommended that if, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, that the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. Council directed staff to revise the ordinance and return with additional information at the September 11, 2018, Regular City Council meeting.

J. The September 11, 2018 Regular City Council Meeting was cancelled.

K. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

L. On October 28, 2019, the City Council held a duly noticed public hearing on short-term rentals and directed staff to initiate a Zoning Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance to the City Council for adoption that can be implemented without an LCPA, with the understanding it will be superseded when the new ZTA and LCPA are approved.

M. On November 7, 2019, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; homeowners associations on record with the City; regional, state and federal agencies affected by the amendment; local libraries and media; and the California Coastal Commission.

N. On December 3, 2019, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report and previous agenda reports related to short-term rental regulation, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is 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, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of thirty (30) consecutive days or less to a transient.

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

Section 17.55.010 Short-term Rental Permit Required.

A. Short-term rental of property (or the advertisement, offer, or facilitation, of such rental), is prohibited unless conducted in strict compliance with the requirements of this chapter by an owner who possesses a valid short-term rental permit. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental. Any offer or advertisement for the short-term rental of property in the city that does not contain a valid short-term rental permit number, or which the City identifies as illegal to the person or entity advertising or offering the rental, shall be immediately removed.
B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit.
C. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:
    1. Contact information for the owner of the property
    2. Contact information for the owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, who is available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any guest staying at the property to answer calls from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property.
    3. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.020(C) paired with an attestation that the applicant is in full compliance with the compliance agreement and not in default or breach.
    4. Attestation and agreement to comply with the requirements of this Chapter.
    5. Proof that the owner and operator of the rented property is in compliance with Chapter 3.24 of this code.
    6. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property.
    7. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that applicant has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the applicant maintains a short-term rental permit for the property.
    8. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis; no more than two dwelling units may be approved for short-term rental on a legal lot.

9. The type of short-term rental permit sought: primary resident, non-primary resident, or multifamily.
10. If seeking a primary resident short-term rental permit, proof of primary residency and attestation that the location is the applicant's primary residence, meaning that the applicant lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the applicant's primary residence for the duration of the permit shall suffice.
11. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire building, and an attestation that all dwelling units (except for two) are rented on a long term-basis per Section 17.55.030(C). The permit holder shall maintain copies of the leases for all tenants documenting compliance at all times with Section 17.55.030(C) for a period of three years following the expiration of the short-term rental permit.

D. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.
E. Notice of Approval. The Planning Director shall provide, at the owner's expense, the contact information for the owner's agent identified in (C)(2) above to all dwelling units within five hundred (500) feet of the short-term rental unit's parcel boundary.
F. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.
G. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.
H. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:
    1. The applicant has not paid all transient occupancy tax due or is not in compliance with Chapter 3.24 of this code.
    2. The property has any outstanding code enforcement violations.
    3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
    4. The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
    5. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter including, but not limited to, situations where the OWTS requirements of Section 17.55.020(C) have not been met.
    6. The property has received more than two citations for violation of the City's noise ordinance within a period of twelve (12) consecutive months.
I. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.
J. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted

17.55.020 Specific Requirements for Short-term Rentals.

A. The following requirements shall be strictly adhered to by those conducting the short-term rental of property. In addition to all other penalties and remedies, a short-term rental permit application (or renewal application) may be denied or revoked where a holder of a Primary Resident Permit receives a total of three (3) citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months, or where a holder of a Non-Primary Resident Permit or Multifamily Permit receives a total of two (2) citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months.
    1. All persons present at the property during a period when there is a short-term rental of a property must park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces as determined by the Planning Director are exempt from this requirement, but no more than one (1) vehicle may be parked on the street by persons present at the property during the short-term rental of the property.
    2. The owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, must be available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any guest staying at the property. The owner's agent must be available to answer a call to this number from the City, an agent authorized by the City to make such calls or a guest when there is a guest renting the property.
    3. Owner or owner's agent 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 her/his designee for purposes of inspection or audit.
    4. Owner or owner's agent 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.
    5. 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 fourteen (14) people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
    6. The short-term rental permit number must be prominently posted on all advertisements for the short-term rental of the property.

B. No person shall offer, facilitate an offer, or allow short-term rental of property in any location not specifically identified and approved on a short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage. In addition to all other remedies, violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

C. Short-term rental of property is prohibited on any property unless the owner of the property (1) has obtained a valid OWTS operating permit for the property pursuant to Chapter 15.44 or (2) has entered a compliance agreement with the City excusing such compliance, and is in compliance with the compliance agreement and not in default or breach. In addition to

all other remedies, a violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

17.55.030 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Primary Resident Permit. A primary resident owner may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. To be eligible for this type of permit the primary resident owner applicant must provide proof of primary residency in a form acceptable to the City Manager and an attestation, under penalty of perjury, that the location to be permitted is the owner's primary residence. Multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that primary resident owners of condominiums may obtain this type of permit for the unit where he or she has established his or her primary residence.

B. Non-Primary Resident Permit. An owner may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid even if the permitted location is not the owner's primary residence. Property subject to this type of permit may only be rented on a short-term basis during the period between April 1 and September 30 each year. Multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that owners of condominiums may obtain this type of permit.

C. Multifamily Permit. Owners of entire multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two (2) units in the building so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

17.55.040 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.050 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant and location for a twelve (12) month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.020, (3) more than two (2) citations for violation of the City's noise ordinance in a period of twelve (12) consecutive months for holders of a Primary Resident Permit, or (4) more than one (1) citation for violation of the City's noise ordinance in a period of twelve (12) consecutive months for holders of a Multifamily or Non-Primary Resident Permit, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall result in the property and applicant being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.
D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.060 Revocation.

A short-term rental permit may be revoked if a preponderance of the evidence demonstrates that the property or permit holder is in violation of Section 17.55.010(H) or 17.55.020.

17.55.070 Appeals.

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.

B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.
D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 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, or the advertised short-term rental's daily rental rate per day or violation, whichever is higher.

B. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code committed by guests at the property.

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 3. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be prior to or concurrent with the application for a short-term rental permit. An operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 4. Zoning Text Amendment Findings.

The City Council 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

SECTION 5. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 7. Effectiveness.

This Ordinance will become effective on June 1, 2020, following its passage and adoption.

SECTION 8. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this _____ day of January 2020.

_____
KAREN FARRER, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

_____
CHRISTI HOGIN, City Attorney

RESOLUTION NO. 19-53

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU INITIATING A LOCAL COASTAL PROGRAM AMENDMENT AND ZONING TEXT AMENDMENT TO CONSIDER CHANGES TO THE MALIBU LOCAL COASTAL PROGRAM AND TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE TO REGULATE THE SHORT-TERM RENTAL OF RESIDENTIAL PROPERTY.

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

SECTION 1. Recitals.

A. While the City of Malibu currently allows residential property to be rented on a short-term basis for periods of 30 days or less with registration and payment of transient occupancy tax and adherence to local laws and regulations, 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) against STR operators have been resisted and challenged. 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, 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26

stating that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition. The Commission further recommended that if, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, that the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

H. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. Council directed staff to revise the ordinance and return with additional information.

I. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

J. On October 28, 2019, the City Council held a duly noticed public hearing on short-term rentals and directed staff to return with a resolution to initiate a Zoning Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance to the City Council for adoption that can be implemented without an LCPA, with the understanding it will be superseded when the new ZTA and LCPA are approved.

K. On December 3, 2019, the City Council held a duly noticed public hearing, reviewed and considered the agenda report and previous agenda reports related to short-term rental regulation, reviewed and considered written reports, public testimony, and other information in the record and based thereon adopts Resolution No. 19-53.

SECTION 2. Initiation.

Pursuant to the City's Local Implementation Plan (LIP) Chapter 19 and MMC Chapter 17.74, the City Council hereby initiates amendments to the LCP and MMC Title 17 (Zoning) to address the potential impacts of short-term rental of residential property and protect the neighborhood character in the City by adopting regulations for the short term rental of property that prohibit use inconsistent with the General Plan and impose prohibitions and regulations consistent thereof and directs staff to issue a Notice of Availability consistent with LIP section 19.3.1. The amendments shall include proposing regulations that would limit the short-term rental of residential property to home-sharing except for certain multifamily housing where up to two units could be rented on a short-term basis

without home-sharing, so long as the other units in the building were rented on a long-term basis.

SECTION 3. Planning Commission Hearing.

The Planning Commission is hereby directed to conduct a duly noticed public hearing in accordance with the provisions of LIP Chapter 19 and MMC Chapter 17.74. Following the public hearing, the Planning Commission shall recommend to the City Council whether it should approve, modify or deny the proposed amendments. The Planning Commission's recommendation shall be made by resolution carried by the affirmative vote of not less than the majority of the entire Planning Commission

SECTION 4. Certification

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 3rd day of December 2019.

KAREN FARRER, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

CHRISTI HOGIN, City Attorney

City Council Meeting
03-26-18
Item
4.A.

Council Agenda Report

To: Mayor Mullen and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: June 28, 2018 Meeting date: July 9, 2018

Subject: Short-Term Rental Ordinance

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on the first reading Ordinance No. 435 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act, amending Title 17 of the Malibu Municipal Code (MMC) and adding Chapter 17.55 (Short-term Rental Ordinance) to MMC Title 17 (Zoning) to establish provisions to regulate short-term rentals of property citywide; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 435 for the July 23, 2018 Regular City Council Meeting.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

DISCUSSION: The proposed Short-Term Rental Ordinance is intended to clarify the existing prohibition on short-term rentals in multifamily buildings, set minimum standards and requirements for the short-term rental of property and preserve neighborhood character. The ordinance was drafted based on direction provided by City Council and has been revised through the legislative process to reflect the comments received from the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES), the Planning Commission and members of the public, while keeping to the original Council direction.

This report provides a brief background on short-term rentals in Malibu, provides data on the current short-term rental market, presents the Planning Commission's recommendation from the May 7, 2018 Planning Commission Meeting, addresses the concerns raised by the Planning Commission, provides an overview of the draft ordinance, and discusses potential implementation and enforcement of the proposed ordinance.

ATTACHMENT 3
~~Agenda Item #4.A.~~

Background

Short-term rental of residential property is currently allowed in single-family homes in the City so long as such rental complies with the MMC, the property is registered with the City, and Transient Occupancy Tax (TOT) is properly remitted.[1] This includes MMC regulations addressing parking, noise, special event gatherings (permit needed for events with 15 or more people) and nuisance issues.

Short-term rental of residential property has long been a practice in Malibu and predates the City's incorporation in 1991. For many years, rentals were handled directly by owners or with the assistance of real estate agents or brokers. With the rise of internet platforms such as Airbnb, VRBO, Homeaway and others in the last decade, the short-term rental process has become more convenient, efficient and robust and, as a result, property is rented on a short-term basis more frequently.

The MMC includes Chapter 3.24 titled "Uniform TOT Ordinance of the City of Malibu." In 2009, the City began the collection of TOT on the short-term rental of private homes in accordance with Chapter 3.24. A short-term rental is generally described in MMC Chapter 3.24 as the rental of a structure for 30 consecutive calendar days or less. This includes any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, rental unit, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof, and shall further include any trailer court, camp, park or lot where trailer spaces, or combinations of such spaces and trailers, including mobilehomes, are occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes.

In April 2015, Airbnb began collecting and remitting TOT for the properties in the City that are rented through its website, some of which are also registered directly with the City.

Current Market Landscape

There are currently a total of 408 properties that are remitting TOT for short-term rental of property. Of the 408, 220 are registered directly with the City and 188 are registered through Airbnb.

[1] MMC Chapter 3.24 requires owners and operators of short-term rental properties to register their property with the City and remit TOT on a quarterly basis. It also authorizes the City to collect TOT when a hotel, motel or residential home is occupied for 30 consecutive calendar days or less. The tax rate is 12 percent of the amount charged. Registration is a one-time $25 fee and taxes are collected on a quarterly basis. If an owner or operator fails to remit TOT as required the City may impose interest and penalties on the amount owed.

In Fiscal Year 2016-2017, the City received $1.8 million in tax revenue from short-term residential rentals. In Fiscal Year 2017-2018, the City expects to receive $1.8 million.

Given the rapid growth of online rental platforms which facilitate the short-term rental of property, it is highly likely that there are properties in Malibu that are used for short-term rental that are not registered with the City or with Airbnb.

In order to gather more accurate data and gain better oversight of short-term rentals, the City issued a Request for Proposal for short-term rental administration in winter 2017. On February 13, 2018, the City entered into a contract with Host Compliance (Host). Host has a proprietary software service that collects data weekly across the top 50 short-term rental listing sites. All the data collected on short-term rental listings, including reviews, calendar information and photos, is then aggregated, de-duplicated and documented by the Host program. Host has been collecting information on short-term rentals in Malibu for the past several months. From the information gathered thus far, Host has developed some preliminary data on the current Malibu short-term rental market which it can compare to some historical data points and provide a fuller context with which to understand current dynamics and review potential policy changes.

Many owners advertise their short-term rental units on multiple websites. Owners can change their listings at any time and, to address this, Host updates its data on a weekly basis and is regularly tracking market trends. As of June 22, 2018, Host identified 945 listings in Malibu. Of the 945 listings, Host identified 522 unique rental units.[2] This data suggests over a hundred rental units are currently not registered with the City. Monitoring by Host will facilitate identification of unregistered owners and increase compliance.

Data from Host indicates the majority of Malibu's short-term rentals are large, single family homes. Approximately 94 percent of the City's short-term rentals are for entire homes[3] and approximately 74 percent are for single family residences. Approximately 62 percent of the City's entire home short-term rental units are three bedrooms or more. In fact, approximately 20 percent are five bedrooms or more. The majority of the City's short-term rentals rent for over $400 a night. The relatively unique composition of Malibu's short-term rental housing stock has less of an impact on affordable housing than in other communities that have more diversified listings at lower average costs.

To provide a broader context for the current figures on short-term rentals, staff researched the total number of housing units in the City. Where the General Plan estimated that there were over 4,000 single-family homes in Malibu, the California

[2] Units in multifamily buildings are counted as separate and distinct units.

[3] This includes instances when homeowners rent out accessory dwelling units, duplex units, etc. (where the unit is listed as an "entire home" rental) but the homeowner is actually next door for the duration of the stay.

Department of Finance estimates that there were 6,907 total housing units in Malibu as of January 1, 2017, of which 5,373 were single-family homes (including detached and attached).

Legislative Review

On November 9, 2015, in response to complaints from residents regarding a particular single-family home being used for short-term rental, the Council directed staff to develop options for regulating short-term residential rental property owners who misuse the property or cause a nuisance in the neighborhood.

On February 8, 2016, the Council reviewed a range of enforcement mechanisms from a ban of all short-term residential rentals to limits on rentals, such as restricting the number of days per year a property can be rented, or instead, strictly enforcing noise and nuisance ordinances already on the books to deal with problem rental properties. The Council voted not to ban short-term rentals, but rather to allocate more resources to help prosecute violations of the MMC, and particularly the City's noise ordinance, special events permit requirements, and parking codes and authorized a contract for on-call monitoring services of short-term residential rentals with SWS, Inc.

On June 16, 2016, the Council received an update on issues related to short-term residential rentals. Council directed staff to bring back an item exploring ordinances regulating short-term rentals, including primary residency requirement of hosts, code violation consequences, licensing of short-term rentals, occupancy limits, fines structure and methods of enforcement.

On October 10, 2016, the Council reviewed options for regulating short-term residential rentals and directed staff to bring back a draft ordinance that included:

1. A ban on short-term rental properties with outstanding code enforcement violations, as well as the advertisement of such properties, with each violation of the ban resulting in the ban extending an additional six months from the date the enforcement violation is cured;

3. A ban on the short-term rental of multifamily housing, except for home sharing (where the owner is present on the property during the stay), which prevents this housing from being converted to hotel/motel use;

4. A limit on the number of days a property can be rented;

5. Requirement of proof of primary residence at the property, or that the host live at the property for a certain number of days a year;

6. A requirement that rentals meet certain standards, e.g. annual inspections, onsite parking for all guests, handicapped access on the property and in the home, compliance with all fire safety and occupancy codes, requiring onsite manager or that the manager is available 24-7; and

7. A requirement that CC&Rs for future developments and/or major remodels in the City to include provisions banning short-term rentals.

Staff drafted an ordinance based on the direction provided by Council and presented it to ZORACES (Attachment 3) for discussion and feedback.

On May 23, 2017, ZORACES discussed the proposed ordinance and recommended that staff draft an ordinance to include the following:

1. Prohibition of short-term rentals and home sharing in the Multi-Family Residential zone for complexes with three or more units:

2. A requirement for signage indicating 24 hours per day, seven days per week contact information for a designated manager, visible to the public at all times;

3. A requirement for compliance terms to be met or revocation of rental privileges be imposed for six months, to be increased upon lack of further compliance, which could lead to criminal penalties if compliance is ultimately not met; and

4. A requirement that homeowners attest when they register that their homes have smoke detectors with an inspection provision;

The Subcommittee also recommended that staff research:

- Covenants, conditions, and restrictions of homeowners associations that could provide examples for communities that would like to create privately enforceable restrictions;

- Whether the owner should be allowed to be the designated manager;

- Examples of types of contact information signage used in other communities;

- The cost to fund one or two full-time positions related to enforcement;

- The need for an inspection program for wastewater treatment systems; and

- Hosting guidelines that could be provided to TOT registrants, similar to the Filming Code of Conduct for film permits.

Staff revised the proposed ordinance based on the recommendations provided by ZORACES and presented it to the Planning Commission at a duly noticed public hearing. On November 20, 2017, the Planning Commission reviewed and made comments on the draft short-term rental ordinance; however, the Planning Commission did not make a motion or reach consensus at the meeting.

Staff categorized all the comments received by the Commissioners, prepared responses to address all Commissioners' comments by category and made adjustments to the proposed ordinance (Attachment 3). On May 7, 2018, the Planning Commission held a public hearing to review the revised ordinance and made two motions as follows:

- Directed staff to prepare a resolution stating that the Planning Commission recommends that the City Council find that the short-term rental of property is currently prohibited in all residential zones in the City and adopt an ordinance memorializing that prohibition; and

- Directed staff to include in the resolution a recommendation that if a ban on the short-term rental of property was not put in place, a CEQA environmental study be prepared if necessary.

Planning Resolution No. 18-26 is attached (Attachment 2).

Below, staff has categorized comments received from the Planning Commissioners and members of the public and prepared the responses below.

<u>May 7 Planning Commission Meeting Comments</u>

Commercial Use of Property in Residential Zones
Concerns were raised about whether short-term rentals constituted a commercial use in residential zones. The justification for allowing short-term rental of property in a residential zone is that like long-term rental of property, money is collected in exchange for allowing occupancy of a dwelling unit. In that way, long-term rental of property is a revenue-generating use of property just like short-term rental. Also, similar to a long-term rental, the property owner or manager may or may not be onsite or local. Both long-term and short-term rental of residential property is currently allowed in Malibu. The primary difference is the length of time the occupants stay in the dwelling unit. Under the proposed ordinance, restrictions on short-term rental units would be greater than those for dwelling units occupied on a permanent or longer term basis in order to address

concerns that have been expressed about short-term occupancy. For example, unlike units occupied by long-term tenants, for short-term rental properties:

- Contact information for the owner or owner's agent must be provided to the City and neighbors within 500 feet, and will be made available to Host so they can notify the owner of complaints
- The owner or owner's agent must be available 24 hours a day, seven days a week while the unit is in use as a short-term rental
- Parking must be onsite. For long-term occupied units, there are no restrictions on parking.
- Occupancy by more than 14 people requires a special event permit (SEP). For a long-term occupied unit, there is no limit on occupancy and a SEP is only needed for an event with 100 or more attendees.

Corporate Ownership of Residential Homes

Concerns were raised about the potential for corporations, investment groups or individuals to buy properties for the sole purpose of short-term rental. The extent to which this is currently occurring is unknown. However, based on registration data, it does not appears to be a widespread local phenomenon. As Host continues to monitor short-term rentals and refine its data, the City will have better information regarding this topic which can be reported to City Council and used to guide future policy. If corporate ownership is determined to be a problem, there are a number of policies that the City could consider adopting that could potentially inhibit the growth of short-term rental investment properties. These policy options include, but are not limited to, requiring that only individuals can register for short-term rental and putting a limit on the number of properties a single person or entity can register for short-term rental. Research shows that many of these regulatory policies are difficult to enforce and there are many ways in which corporate entities or individuals can work around these regulations. Depending on further direction from City Council, the City could evaluate these policies for implementation if needed in the future.

Definition of Multi-Family Residence

Questions were raised as to why the ordinance defines multi-family residence as a building with three of more dwelling units. This definition of multi-family residence is already established in MMC Chapter 17.02.060. The proposed ordinance is designed to clarify and be consistent with existing codes and thus relies on the existing definition of a multi-family residence. Based on this language, short-term rentals could occur at single-family and duplex properties only. The Council could choose to change this definition for purposes of the STR ordinance. For example, several owners of multi-family buildings asked that the definition be changed to increase the number of units to more than four. Other types of definitional changes suggested would allow some short-term rental within multi-family buildings. Such changes would make the proposed ordinance less restrictive

than the City's current ban on multi-family unit rentals but would put the City's affordable housing at greater risk.

Primary Residence Requirement
A primary residence requirement on short-term rentals was suggested by some in an effort to limit the number of short-term rentals in the City. This requirement was included in the original draft of the proposed ordinance that was presented to ZORACES on May 23, 2017. During the discussion at the May 23, 3017 ZORACES meeting, it was determined that this requirement was problematic due to the number of Malibu residents who own more than one home. At the recommendation of the Subcommittee, the primary residence requirement was removed from subsequent drafts of the proposed ordinance.

Permitting System
Use of a permitting system, rather than a registration program, was suggested to strengthen the City's ability to regulate short-term rentals and revoke rental privileges. The draft ordinance has been revised to incorporate a permitting system. Further discussion of the proposed permitting system will be included in the next section of the report.

Occupancy Rates
The proposed ordinance establishes a maximum number of occupants based on the number of bedrooms in a rental unit. One of the major reasons that occupancy limits are being proposed is so existing onsite septic systems designed for single family residences are not overwhelmed by the number of occupants in a short-term rental. The presence of children and babies increases demands on septic systems.

Short-Term Rental Code of Conduct
A Code of Conduct has been developed to provide short-term renters rules and regulations associated with short-term rentals (Attachment 4) including:

- *Emergency Concerns:* Short-term renters may be unaware of Malibu's fire dangers, emergency protocols and evacuation routes. Additional emergency information will be included in the Short-Term Rental Code of Conduct.
- *Septic System Concerns:* Short-term renters may be unaware of septic system requirements. Additional information on septic systems will be included in the Short-Term Rental Code of Conduct.

Noise and Neighborhood Nuisance Issues
The ordinance has been revised to include several provisions to ensure that neighbors' concerns are addressed more quickly and that violations of noise and other regulations can result in the revocation and denial of a short-term rental permit for an extended period of time.

California Environmental Quality Act

The Planning Commission expressed concern about potential impacts of short-term rentals and recommended that if a ban were not put in place,that CEQA analysis be required for the proposed ordinance to analyze these effects depending on what ordinance was put in place. At the direction of Council, any such issues could be more fully explored in studies not limited the areas of concern under CEQA, but staff's analysis of the proposed ordinance is that it is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines as it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and those that would apply to owners and long-term renters. For example, when not in use as a short-term rental, a three-bedroom house could be occupied by any number of tenants and its tenants and guests could park any number of cars on the street. It would not be limited to eight tenants, as a short-term rental would be, nor would it be constrained to parking on the property. The proposed ordinance does not expand the ability to rent property on a short term basis; it does the opposite, so any environmental impacts related to short-term rentals would be reduced by this ordinance, not increased.

Draft Ordinance

The ordinance was drafted based on direction provided by the City Council and has been revised through the legislative process to reflect the comments received from ZORACES, the Planning Commission and members of the public, while keeping to the original Council direction. Throughout the process, the intent of the ordinance remained the same: to clarify the existing prohibition on short-term rentals in multifamily buildings, set minimum standards and requirements for the short-term rental of property and preserve neighborhood character. The main points of the draft ordinance (Attachment 1) are summarized here.

1) Institutes a permit system where the owner of a short-term rental property must possess a valid Short-Term Rental Permit (STR Permit). Each permit will be assigned a unique number, and a separate permit application is required for every rental unit.

2) The STR Permit Application shall include contact information for the owner or owner's agent. The owner or owner's agent must be available to answer calls from the City and deal with any problems at the short-term rental property twenty-four hours a day, seven days a week.

3) The STR Permit Applicant shall attest that they are in compliance with all requirements of the Short-Term Rental Ordinance, MMC Chapter 3.24, including compliance with all applicable codes regarding fire, building and safety and other relevant laws, as well as the requirement that there are no outstanding code violations on the property.

4) The STR Permit is valid for one year and must be renewed annually.

5) The contact information for the owner or owner's agent shall be provided to all properties within 500 feet of the parcel boundary at the owner's expense. This is intended to provide neighbors a point of contact to informally raise or resolve concerns. This requirement was included in lieu of signage due to potential security risks associated with identifying a property as a rental.

6) The property must have onsite parking for all guests, unless the property does not have onsite parking, in which case guests are limited to parking two vehicles on the street. If street parking for more than two vehicles is necessary, a special event permit (SEP) must be obtained. This requirement is designed to limit overflow on-street parking as the SEP would count against the maximum of four events allowed each year per residential parcel.

7) Owner or owner's agents is required to grant City representatives access to the property and records if needed for inspection or audit.

8) The owner shall provide a Short-term Rental Code of Conduct prepared by the City, intended to provide important information, including rules and expectations for conduct, to all guests and post it inside the entrance to the dwelling. A draft Code of Conduct is included as Attachment 3.

9) The maximum occupancy of short-term rental units is designed to coincide with the number of bedrooms in the dwelling unit. The maximum occupancy is limited to two people more than twice the number of bedrooms of record, up to 14 people max. This is consistent with the requirement of MMC Section 5.34.020(C) to obtain a special event permit if a short-term rental is proposed to accommodate 15 people or more.

10) The STR Permit Number shall be displayed on all short-term rental advertisements. This will facilitate monitoring and enforcement of short-term rentals.

11) The STR Permit can be denied or revoked if the applicant is found to have knowingly made false statements in the application.

12) The STR Permit can also be denied or revoked if the property is found to have not paid TOT due, has outstanding code violations, does not comply with all applicable codes, is not in the condition to be rented on a short-term basis or if the property has received more than two citations for noise violations within a consecutive twelve month period.

13) The STR Permit can also be denied or revoked if a total of three citations for violation of any combination of the following requirements occur within a consecutive twelve month period: parking, responsiveness, access, posting of the Code of Conduct, maximum occupancy and listing the permit number on all advertisements.

14) Short-term rental of any vehicle, trailer, tent, storage shed, garage, or other such premises is explicitly prohibited. This provision specifically clarifies the existing ban on individuals offering Airstreams, tents and similar places as vacation rentals.

15) A ban on short-term rentals in multifamily buildings containing three or more units, except for home sharing (where the owner is present on the property during the stay).

16) If an application for a STR Permit is denied, a new application cannot be approved for that applicant and location for a twelve month period.

17) If a STR Permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve months from the date of revocation.

18) The short-term rental of property or the advertisement of property for short-term rental after denial or revocation of a STR Permit shall result in the property and the applicant being ineligible to conduct short-term rental of property for an additional six month period for each such rental.

19) It establishes an appeal process for the denial or revocation of a STR Permit and prohibits the appellant from the short-term rental of property when the appeals process is pending.

20) The appeals process includes a hearing to be scheduled before the Planning Commission. The decision of the Planning Commission shall be appealable to the City Council.

21) Violations are subject to fines of $1,000 per day or violation.

22) The STR Permit holder shall be responsible for administrative citations for violations of the municipal code committed by guests at the property.

23) Any violation of this ordinance shall be considered a separate offence for each and every day the violation occurs or persists.

Implementation and Enforcement of the Proposed Ordinance

The City has already taken significant steps to increase enforcement resources. The City now has three full-time code enforcement officers available to address short-term rental issues along with other code violations. In addition, the City has contracted with Host to assist with monitoring and enforcement of short-term rentals. The Host software will enable the City to easily and accurately identify properties that list short-term rentals and work with owners to come into compliance. The system includes a robust hotline and web portal that will enable community members to register complaints at any time and upload photos and video files, and document and track all complaints received for City staff.

If the draft ordinance is approved with the proposed twenty-four hour, seven days a week contact person, Host's hotline system can generate a call to the responsible party on file to alert them of issues at the rental property.

City staff contacted representatives from a wide range of municipalities in popular tourist destinations currently grappling with short-term rentals regarding staffing and enforcement protocols. Based on those discussions, staff believes that the City's current staffing levels with augmentation from Host are sufficient to address short-term rental compliance at this time given the current scale of short-term rentals and the ordinance provisions proposed.

Once Host's comprehensive system is fully up and running and tracking all the short-term rental data and complaints received, the City will have more information to inform staffing and enforcement needs going forward.

PUBLIC NOTICE: On June 14, 2018, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu, display ads were published in the local newspapers, and was mailed to all interested parties; and all owners/operators currently registered with the City's Transient Occupancy Tax Program (Attachment 5).

SUMMARY: Staff recommends that the City Council introduce the draft ordinance on first reading and direct staff to schedule the second reading, or provide direction on changes to the ordinance to be reviewed at a future hearing.

ATTACHMENTS:

1. Draft Ordinance
2. Planning Commission Resolution No.18-26

3. May 7, 2018 Planning Commission Staff Report – available online at www.malibucity.org/STR
4. Short-Term Rental Code of Conduct
5. June 14, 2018 Public Hearing Notice

ORDINANCE NO. 435

AN ORDINANCE OF THE CITY OF MALIBU ADDING CHAPTER 17.55 TO THE MALIBU MUNICIPAL CODE IMPLEMENTING REGULATIONS FOR THE SHORT-TERM RENTAL OF PROPERTY IN THE CITY

The City Council of the City of Malibu does hereby ordain 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, 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on 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 in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 finding that the short-term rental of property is

currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.. The Commission further recommended that if, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, that the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is 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, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, 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 Rental Permit Required.

A. Short-term rental of property (or the advertisement, offer, or facilitation, of such rental), is prohibited unless conducted in strict compliance with the requirements of this chapter by an owner who possesses a valid short-term rental permit.
B. A separate short-term rental permit is required for every rental unit.
C. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:
    1. Contact information for the owner and owner's agent operating the rented property
    2. Contact information for the owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, who is available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any guest staying at the property. The owner's agent must be available twenty-four (24) hours a day, seven (7) days a week to answer calls from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property.
    3. Attestation and agreement to comply with the requirements of this Chapter.
    4. Proof that the owner and operator of the rented property is in compliance with Chapter 3.24 of this code.
    5. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property.

D. Review and Approval. Short-term rental permits shall be subject to the approval of the City the City Manager or her/his designee.
E. Notice of Approval. The Planning Director shall provide, at the owner's expense, the contact information for the owner's agent identified in (B)(2) above to all dwelling units within five hundred (500) feet of the parcel boundary.
F. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.
G. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.
H. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:
    1. The applicant has not paid all transient occupancy tax due, or is not in compliance with Chapter 3.24 of this code.
    2. The property has any outstanding code enforcement violations.
    3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
    4. The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
    5. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter (e.g. a property with outstanding code violations may not be rented).
    6. The property has received more than two citations for violation of the City's noise ordinance within a period of twelve (12) consecutive months.
I. 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.

17.55.020 Specific Requirements for Short-term Rentals.

A. The following requirements shall be strictly adhered to by those conducting the short-term rental of property. In addition to all other penalties and remedies, a short-term rental permit application (or renewal application) may be denied or revoked where a total of three (3) citations for violation of any combination of the following requirements (and/or the requirements of 17.55.030(B)) occur within a period of twelve (12) consecutive months.
    1. All persons present at the property during a period when there is a short-term rental of a property must park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces are exempt from this requirement, but no more than two (2) vehicles may be parked on the street by persons present at the property during the short-term rental of the property.
    2. The owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, must be available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any guest staying at the property. The owner's agent must be available to answer a call to this number

from the City, an agent authorized by the City to make such calls or a guest when there is a guest renting the property.

3. Owner or owner's agent 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 her/his designee for purposes of inspection or audit.
4. Owner or owner's agent 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.
5. 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 fourteen (14) people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
6. The short-term rental permit number must be prominently posted on all advertisements for the short-term rental of the property.

B. 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. In addition to all other remedies, violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

17.55.030 Short-term Rentals in Multifamily Housing.

A. Short-term rental of property is prohibited in multifamily residential buildings containing three (3) 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, or facilitate the short-term rental of such properties.
   2. No person shall occupy a residential dwelling, a dwelling unit or a portion thereof for a period of thirty (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. Section 17.55.020(A) does not apply to the short-term rental of a dwelling unit in a multifamily residential building if the unit 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, (2) complies with the requirements of 17.55.010, and (3) if contacted by City staff, the owner appears within ninety (90) minutes in person at the property.

C. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

17.55.040 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal must shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.050 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant and location for a twelve month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of section 17.55.020, or (3) more than two (2) citations for violation of the City's noise ordinance in a period of twelve (12) consecutive months, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall result in the property and applicant being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.
D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.060 Revocation

A. A short-term rental permit may be revoked if a preponderance of the evidence demonstrates that the property or permit holder is in violation of Section 17.55.010(G) or 17.55.020.

17.55.070 Appeals

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 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. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code committed by guests at the property.

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 3. Zoning Text Amendment No. 18-xxx.

The City Council 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

APPROVED AS TO FORM:

CHRISTI HOGIN, City Attorney

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 18-26

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE MEMORIALIZING THAT THE SHORT TERM RENTAL OF PROPERTY IS PROHIBITED IN ALL RESIDENTIAL ZONES OF THE CITY

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

SECTION 1. Recitals.

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

B. On May 23, 2017, the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City Council reviewed a draft ordinance (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

C. 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.

D. On November 20, 2017, the Planning Commission held a duly noticed public hearing on the draft ordinance, 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. The Commission discussed additional information they wished to receive and changes to the draft ordinance.

E. On April 12, 2018, 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.

F. On May 7, 2018, the Planning Commission held a duly noticed public hearing on the draft ordinance, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

SECTION 2. Zoning Text Amendment Recommendations

Pursuant to MMC Section 17.74.040, the Planning Commission makes the following recommendations.

A. The Planning Commission hereby finds that the short-term rental of property is currently prohibited in all residential zones in the City and recommends that the City Council adopt an ordinance memorializing this prohibition.

B. If, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, the Planning Commission recommends that the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

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

PASSED, APPROVED AND ADOPTED this 7th day of May 2018.

CHRIS MARX, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 18-26 was passed and adopted by the Planning Commission of the City of Malibu at the Special meeting held on the 7th day of May 2018 by the following vote:

AYES:	3	Commissioners:	Mazza, Uhring, Marx
NOES:	1	Commissioner:	Jennings
ABSTAIN:	0		
ABSENT:	1	Commissioner:	Pierson

KATHLEEN STECKO, Recording Secretary

CITY OF MALIBU

Welcome to the City of Malibu. It is the goal of the City that all visitors and residents are able to enjoy Malibu's natural environment while maintaining its rural residential character. Our Code of Conduct is a way to assist us toward this goal.





ATTACHMENT 4

RESOURCES

SHORT-TERM RENTAL HOTLINE

xxx-xxx-xxxx

CITY CODE ENFORCEMENT

310-456-2489, ext.484

LOS ANGELES COUNTY SHERIFF DEPARTMENT

818-878-1808

LOS ANGELES COUNTY FIRE DEPARTMENT

310-317-1802

MALIBU EMERGENCY & TRAFFIC HOTLINE

310-456-9982

CONTACT US

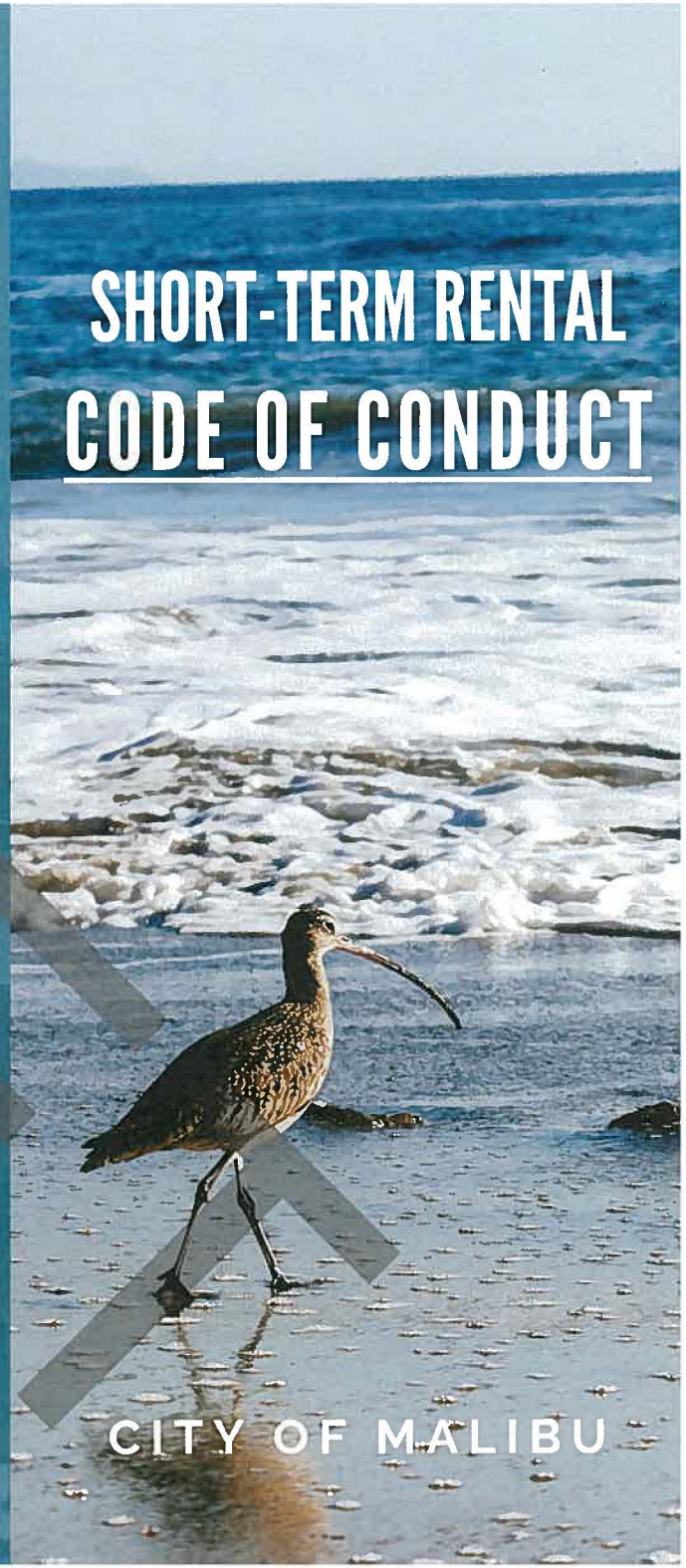
23825 Stuart Ranch Rd
Malibu, CA 90265

310-456-2489

MalibuCity.org/STR

CITY OF MALIBU

SHORT-TERM RENTAL CODE OF CONDUCT



CITY OF MALIBU

SHORT-TERM RENTAL
CODE OF CONDUCT



Please refer to Malibu Municial Code (MMC) Title 17 for more details regarding the City's Short-Term Vacation Rental Ordinance.

NEIGHBORHOOD IMPACTS

Occupancy:

The maximum occupancy of the short term rental property is limited to two people more than twice the number of bedrooms of record up to 14 people.

Noise:

Please keep all noise levels to a minimum. *(MMC Chapter 8.24)*

Trash:

Please keep trash and recycling containers out of public view until pick-up day and remove all containers from the street and sidewalk no later than 8 PM on collection day. Place containers on the street and sidewalk no sooner than 5:30PM the day before your scheduled collection. *(MMC Section 9.28)*

Parking:

All guests shall park onsite. Garages are required to be available for guest parking. If the property does not have onsite parking no more than two vehicles may be parked on the street.

Special Events:

A Special Event Permit is required in conjunction with a short-term rental if 15 or more people are anticipated to attend. *(MMC Section 5.34.020(C))*

Fines:

Any violation of Malibu Municiple Code Title 17 Chapter 55 is subject to a fine of $1,000 per day or violation.

ENVIRONMENTAL REGULATIONS

Plastic Bag Ban:

The City of Malibu has banned the distribution of plastic bags for groceries, pharmacies, restaurants, and retail stores. Please help us to ensure that plastic bags do not end up on the beaches and in the ocean. *(MMC Section 9.28)*

Polystyrene Foam Ban:

The City of Malibu has banned the sale and distribution of foam packaging, food ware, beach toys, ice chests or coolers made from polystyrene. Please refrain from using these polystyrene foam products to help preserve the natural environment. *(MMC Section 9.24)*

Plastic straws and cutlery:

The City of Malibu has banned the sale and distribution of plastic straws and cutlery for groceries, pharmacies, restaurants, and retail stores. Please help us to ensure that plastic straws and cutlery do not end up on the beaches and in the ocean. *(MMC Section 9.28)*

High Risk Fire Hazard Severity Zone:

Malibu is in a very high fire hazard severity zone. Please exercise extreme caution. Get to know your evacuation routes and be prepared to evacuate on short notice in case of wildfire.

Onsite Wastewater Treatment:

Most homes in Malibu rely on onsite wastewater treatment systems (septic systems) rather than traditional sewer systems. Please be mindful of this during your stay.

- Minimize use of garbage disposals
- Use a drain catch and put food waste in the garbage
- Never dispose of the following down the drain: kitty litter, feminine hygiene products, paper towels, diapers, cigarettes, drugs, cooking oil, and grease
- Never dispose of household chemicals into the septic system

DRAFT

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, July 9, 2018, at 6:30 p.m. in the Council Chambers, Malibu City Hall**, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

SHORT-TERM RENTAL ORDINANCE

ZONING TEXT AMENDMENT NO. 17-002 – The Malibu City Council will consider amendments to Title 17 (Zoning Ordinance) of the Malibu Municipal Code and the Planning Commission's recommendations regarding short-term rental of property (also known as vacation rentals) in residential and multi-family zones

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Bonnie Blue, Planning Director (310) 456-2489, extension 258 bblue@malibucity.org

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

A written staff report will be available at or before the hearing. All persons wishing to address the Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents are available for review at City Hall during regular business hours. Written comments may be presented to the City Council at any time prior to the beginning of the public hearing.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Bonnie Blue, Planning Director, at (310) 456-2489, extension 258.

Bonnie Blue
Planning Director

Publish Date: June 14, 2018

Adjourned Meeting
09-26-18
Item
4.B.

Council Agenda Report

To: Mayor Mullen and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: September 6, 2018 Meeting date: September 26, 2018

Subject: Short-Term Rental Ordinance (Continued from July 9, 2018)

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 436 (Attachment A) determining the project is categorically exempt from the California Environmental Quality Act, amending Title 17 of the Malibu Municipal Code (MMC) and adding Chapter 17.55 (Short-term Rental Ordinance) to MMC Title 17 (Zoning) to establish provisions to regulate short-term rental of property citywide; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 436 for the October 8, 2018 Regular City Council Meeting.

FISCAL IMPACT: In Fiscal Year 2016-2017, the City collected $1.8 million from transient occupancy tax of short-term residential rentals. In Fiscal Year 2017-2018, this revenue source generated $2.3 million (unaudited). It is likely that this tax revenue source will be negatively impacted by the proposed ordinance, but the extent of this decrease cannot be determined at this time. If additional law enforcement resources are approved, a budget amendment in the amount of $66,000 will be needed and brought back to Council as part of the mid-year budget review.

DISCUSSION: This item was continued at the July 9, 2018 Regular City Council Meeting with direction to staff to return with a revised ordinance. The proposed Short-Term Rental Ordinance clarifies the extent of the existing prohibition on short-term rentals in multifamily buildings and sets standards and requirements for the short-term rental of property to address potential impacts of short-term rentals and preserve neighborhood character.

ATTACHMENT 4

~~Agenda Item # 4.B.~~

This report provides a brief background on short-term rentals in Malibu, addresses the concerns raised by the Council at the July 9, 2018 Regular City Council Meeting, provides an overview of the updated draft ordinance, and discusses implementation and enforcement of the proposed ordinance. Specifically, this report provides information on the following items requested by the Council:

- limiting on-street parking;
- an option allowing rental of two units in multifamily buildings and information on the characteristics of the City's multifamily unit inventory;
- regulation options for condominiums and communities with Covenants, Conditions and Restrictions (CC&Rs);
- issuing permits to individuals rather than corporations;
- a primary residence requirement and potential exemptions;
- an onsite wastewater treatment system permit requirement;
- permit fees and processing, including a phasing-in period; and
- ordinance enforcement.

Background

Short-term rental of residential property is currently allowed in single-family homes in the City so long as such rental complies with the MMC, the property is registered with the City, and Transient Occupancy Tax (TOT) is properly remitted.[1] This includes MMC regulations addressing parking, noise, nuisance issues and special event gatherings. A Special Events Permit is needed for events with 15 or more people taking place in a short-term rental.

Short-term rental of residential property predates the City's incorporation in 1991. For many years, rentals were handled directly by owners or with the assistance of real estate agents or brokers. With the rise of internet platforms such as Airbnb, VRBO, Homeaway and others in the last decade, the short-term rental process has become more convenient, efficient and robust and, as a result, short-term rental activity has increased. In April 2015, Airbnb began collecting and remitting TOT for the properties in the City that are rented through its website, some of which are also registered directly with the City.

There are currently 414 properties that are remitting TOT for short-term rental. Of the 414, 226 are registered directly with the City and 188 are registered with Airbnb. In

[1] MMC Chapter 3.24 requires owners and operators of short-term rental properties to register their property with the City and remit TOT on a quarterly basis. It also authorizes the City to collect TOT when a hotel, motel or residential home is occupied for 30 consecutive calendar days or less. The tax rate is 12 percent of the amount charged. Registration is a one-time $25 fee and taxes are collected on a quarterly basis. If an owner or operator fails to remit TOT as required, the City may impose interest and penalties on the amount owed.

Fiscal Year 2016-2017, the City received $1.8 million in tax revenue from short-term residential rentals. In Fiscal Year 2017-2018, the City received $2.3 million in tax revenue from short-term residential rentals.

Given the rapid growth of online rental platforms, which facilitate the short-term rental of property, it is highly likely that there are properties in Malibu that are used for short-term rental that are not registered with the City or with Airbnb. In order to gather more accurate data and gain better oversight of short-term rentals, the City entered into a contract with Host Compliance (Host) in February 2018. Host has a proprietary software service that collects data weekly across the top 50 short-term rental listing sites. All the data collected on short-term rental listings, including reviews, calendar information and photos, is then aggregated, de-duplicated and documented by the Host program. Data from Host collected in recent months has been used to provide context, understand current dynamics and review potential policy changes.

As of August 15, 2018, Host identified 925 listings in Malibu across 50 sites. Of the 925 listings, Host identified 523 unique rental units.[2] This data suggests over a hundred rental units not registered with the City. Monitoring by Host will facilitate identification of unregistered owners and increase compliance. The California Department of Finance estimates that there were 6,907 total housing units in Malibu as of January 1, 2017, of which 5,373 were single-family homes (detached and attached).

Data from Host indicates the majority of Malibu's short-term rentals are large, single-family homes. Approximately 94 percent of the City's short-term rentals are for entire homes[3] and approximately 74 percent are for single family residences. Approximately 62 percent of the City's entire home short-term rental units are three bedrooms or more. In fact, approximately 20 percent are five bedrooms or more. The majority of the City's short-term rentals rent for over $400 a night.

July 9, 2018 Council Meeting

On July 9, 2018, the Council held a public hearing on the regulation of short-term rentals. The agenda report (Attachment B) summarized the Planning Commission's recommendation (including Planning Commission Resolution No. 18-26 as an attachment). The report also provided a draft ordinance prepared by staff based on previous direction from Council, ZORACES and the Planning Commission proposing a short-term rental permit (STR Permit) system. At the conclusion of its deliberations, Council expressed consensus approving all but two of the 24 main points summarized in the agenda report regarding the proposed ordinance. Specifically, Council requested

[2] Units in multifamily buildings are counted as separate and distinct units.
[3] This includes instances when homeowners rent out accessory dwelling units, duplex units, etc. where the unit is listed as an "entire home" rental while the homeowner is next door for the duration of the stay.

changes to the proposed parking regulations and the prohibition of short-term rentals in multifamily buildings. In addition, Council requested that staff research and bring back options for establishing primary residence requirements, developing special exemptions from primary residence requirements, regulating rentals in condominiums, requiring Onsite Wastewater Treatment System (OWTS) operating permits for short-term rental properties, determining permit fees, processing permit applications, phasing in the permit system, and enforcement tools. Additional information is provided for each of these topics below, followed by a summary of the updated draft ordinance.

Analysis of Issues Raised by Council

Parking Requirements

The previous draft ordinance required all parking to be accommodated onsite, except where a short-term rental property did not have any onsite parking. In those instances, a maximum of two vehicles could be parked on the street. The purpose of this allowance was to accommodate a small number of properties that were built without garages. Such properties are almost exclusively legal non-conforming homes on the ocean side of Pacific Coast Highway (PCH) in the east portion of Malibu where the original onsite driveway parking was absorbed by highway expansion over the years.

At the direction of Council, the updated draft ordinance requires that all guests park onsite, except properties that do not have onsite parking may park one vehicle on the street. Staff researched properties in east Malibu to identify the number of properties which lack onsite parking and found approximately 38 such parcels. Approximately 16 of these parcels are conducting short-term rentals, based on registrations, TOT payments or online listings.

Multifamily Units

MMC Section 17.02.060 defines a multifamily residence as a building with three or more dwelling units. Multifamily residences can be in the form of an apartment building or complex, in which a single property owner owns the entire property and rents out the individual units, or in the form of condominiums which are individually owned dwelling units located on a single parcel owned in common by all the unit owners. The previous draft ordinance prohibited short-term rentals in multifamily buildings, including condominiums, except for homesharing, where the owner is present in the dwelling unit at the time of the rental.

In response to public comment, Council requested additional information on the City's multifamily residential housing stock and options for regulating short-term rentals in

multifamily apartments and multifamily condominium properties, and specifically an option that allowed the short-term rental of up to two units in a multifamily building.

- *Location of Multifamily Units*

Staff researched both City zoning maps and data from the County of Los Angeles Office of the Assessor (County Assessor) to identify multifamily (apartment and condominium) development in the City. A map identifying all parcels zoned for multifamily and commercial uses is provided in Attachment C. The map shows that the multifamily zoned parcels are generally concentrated in a few areas throughout the City, primarily in eastern Malibu along PCH.

While most multifamily units are located in multifamily zoned parcels, it is important to note that there are some exceptions. The County Assessor classifies properties based on the development on the site, not the property's zoning. According to the County Assessor, approximately 21 of the City's 94 multifamily apartment parcels are located in Single-Family Residential Zones. Of the 21 multifamily apartment parcels in Single-Family Residential Zones, only three parcels consist of five or more units. There are also approximately 30 condominium complexes in the City most of which are located in multifamily residential zones.

- *Multifamily Units - Apartments*

Council received public comment from a number of multifamily apartment property owners and long-term tenants who presented arguments in favor of allowing short-term rentals in apartment buildings.

According to the County Assessor, the City has approximately 94 parcels containing roughly 473 total apartment units (note each parcel may contain more than one building). Analysis of this data shows approximately 50 percent of all apartment units are located in properties with five or more units, approximately 32 percent of units are located in quadraplexes and approximately 18 percent of units are located in triplexes.

Multifamily apartments diversify Malibu's housing stock and make up a major proportion of its affordable long-term rental housing. In an effort to balance short-term rentals and long-term rental housing stock, staff is recommending that short-term rentals be limited to two units per multifamily apartment property, regardless of the total number of units on the property. For example, if an apartment complex has three units, at most two could be used for short-term rentals, and if an apartment complex has 20 units, only two could be used for short-term rentals.

This proposed short-term rental unit cap for multifamily apartment properties will be easier to enforce than limitations based on a percentage of rental units within a building and will also ensure that more units overall are preserved for long-term rental. These regulations would strongly discourage corporations, investment groups or individuals from buying multifamily properties for the sole purpose of short-term rental or converting apartment or condo complexes into "short-term rental hotels/motels."

The ordinance also proposes to require the multifamily building owner to rent all other units in the complex on a long-term basis, unless the unit is occupied by the property owner. This requirement has many benefits. First, it will make the two-unit cap enforceable as the owner will not be able to illegally rent out additional units because they will be occupied. Second, it will provide an incentive to building owners to charge reasonable or low rent to long-term renters in order to ensure they maintain those tenants and the ability to rent units on a short-term basis.

- *Multifamily Units - Condominiums*

Condominiums are generally, but not always, located in multifamily configurations of three or more dwelling units per building. Staff estimates that there are roughly 1,118 condominium units spread out over approximately 30 different complexes throughout the City. Staff recommends treating condominiums the same as single-family residences for the purposes of short-term rental as long as the condominium's CC&Rs do not prohibit short-term rental. As part of the STR Permit application, an applicant seeking a permit for the short-term rental of a condominium unit will be required to attest that the condominium's CC&Rs do not prohibit short-term rental of units, and that he or she has notified the condominium owners' association (COA) of the STR Permit application and retained proof of the notification.

Under the proposed system, if a unit owner has obtained a STR Permit in a condominium where short-term rentals are prohibited or is not be able to provide proof of COA notification, the City could revoke the STR Permit and impose penalties.

STR Permit Holders

Staff recommends issuing one permit per individual, regardless of the number of properties the individual may own. In other words, a person and not a corporation, trust or other entity would have to apply for and obtain the permit. The permit would be associated with one specific property. This permit would allow the individual's property to be listed and used for homesharing, renting the primary dwelling unit, renting an accessory dwelling unit or renting the whole property. Any violation that occurs on the property, regardless of how it is rented (i.e., whole property or some portion), would count against the individual's STR Permit. In the case of owners of multifamily

apartment properties, the property owner (individual) would be allowed to rent a maximum of two units in the apartment complex under a multifamily STR Permit. Similar to single-family residences, any violation that occurs on the multifamily apartment property would count against the individual's STR Permit.

Primary Residency Requirements

Primary residency requirements have been used by other municipalities as a way to curb the practice of acquiring properties solely for the purpose of renting them on a short-term basis. The draft ordinance proposes to require the property to be the owner's primary residence where they live for no less than 185 days of both the previous calendar year and the calendar year during which the STR Permit is active.

STR Permit applicants can demonstrate primary residency by providing copies of three of the following documentation types: a Driver's License, State Identification Card, Motor Vehicle Registration, Property Tax Bill, Tax Documents, Utility Bills, and Bank Statements. Most ordinances do not specify the documentation type. Rather, the options are listed on the permit application form as is proposed here.

Primary Residency Requirement Exemptions

Council received public comments from a number of property owners who presented arguments against a primary residency requirement, including situations where a property is inherited by siblings who share the property and thus cannot establish primary residency at the property. Council requested that staff research options for exempting certain applicants or properties from primary residence requirements.

Staff reached out to a number of cities currently grappling with short-term rentals but was unable to identify any effective exemptions that are currently in place. Ulrik Binzer, the CEO of Host, who advises cities throughout the country on short-term rental policy, warns against establishing any exemptions because they are susceptible to abuse. Instead of developing exemptions, staff recommends creating a two-tier permit system, as discussed below.

Separate Permits for Primary Residents and Non-Primary Residents

The two-tier STR Permit system would establish one tier for documented primary resident property owners and another for non-primary resident property owners. Under this permitting system, non-primary residents would be held to a stricter standard of operation and the penalty for violations would be greater. For example, while a STR Permit issued to a primary resident can be denied or revoked if the owner receives more than **two** citations, a STR Permit issued to a non-primary resident can be denied

or revoked if the owner receives more than **one** citation. This bifurcated system is intended to correct for the fact that primary residents are likely to be more responsive to complaints and limit impacts on the neighborhood as they live there themselves.

In addition, while primary residents would be permitted to conduct short-term rentals throughout the year, non-primary residents would only be permitted to conduct short-term rentals **between April 1 and September 30 each year**. This limitation will discourage corporate owners, investment groups or individual investors from buying properties for the sole purpose of renting a property on a short-term basis because the financial return would be limited to only half of the year. At the same time, longtime property owners with divided family interests where no one claims the property as a primary residence will still be able to generate seasonal income to help maintain their ownership. A seasonal limitation is also easier to enforce than a cap on the number of days a property can be rented. Concentrating the availability of short-term rentals in the summer months also provides a source of visitor-serving accommodations during the period of greatest demand at a time when the City will have maximum code enforcement resources deployed.

Onsite Wastewater Treatment System (OWTS) Operating Permits

The City currently manages OWTS through an operating permit program. As of 2008, all commercial and multifamily residences, including condominiums, are required to have a valid OWTS Operating Permit (operating permit). Single-family residences are currently required to obtain an operating permit upon the sale of the property, major remodel or expansion or replacement of OWTS components. Operating permits must be renewed regularly. For a conventional residential OWTS, the operating permit must be renewed every five years, while the permit for an advanced OWTS must be renewed every three years.

To obtain an operating permit, a property owner must complete the Operating Permit Application, have the OWTS inspected by a City-registered inspector, and pay a fee. The inspection may result in a "pass," a "conditional pass," or a "fail." The inspection generally costs between $400 and $1,000 depending on the type of system and accessibility to the system. If the system passes inspection, the OWTS operating permit fee is currently $463. If the system receives a conditional pass, the applicant will be required to perform some remedial work on the OWTS in order to receive an operating permit, at which time the operating permit fee would be paid. The cost for these remedial repairs to residential OWTS generally varies from $1,000 to up to $20,000 in some cases.

If the system fails inspection, the applicant must enter into a compliance agreement with the City which sets forth a timeline for correction of the system deficiencies. The

compliance agreement requires that the applicant submit an application to install a new OWTS, usually within six months, install the new OWTS usually within one year after the application submittal, and adhere to specific interim measures established by the City, such as a routine inspection and pumping schedule for the duration of the compliance period. The cost to install a new system depends on several factors including but not limited to system type and size. Generally, pumping costs range from $600 to $900 per occurrence while the installation of a new OWTS can cost $60,000 or more.

Staff estimates that currently, approximately 33 to 50 percent of all Malibu households have obtained an operating permit and, of the properties currently registered for TOT, approximately 50 percent have obtained an operating permit.

Staff recommends adding short-term rental of property to the existing property milestones (e.g., point of sale or major renovation) that trigger an owner to obtain an operating permit.[4] This requirement is likely to result in a number of property owners needing to upgrade or repair their OWTS. This may cause enrollment for some property owners in the operating permit program sooner than otherwise would have been required. This is beneficial in the case of short-term rentals as it decreases the likelihood that visitors to the property who may not be familiar with septic systems would overburden a system or experience system failure. This requirement also aligns with the City's water quality protection goals by expediting system upgrades and repairs. Allowing property owners to continue to rent their properties during the compliance period would help offset costs and would be consistent with the current operating permit policy which allows owners to stay in their homes for the duration of the compliance period when the systems are being pumped.

Staff also recommends including in the Short-term Rental Code of Conduct a requirement that informational material must be presented to all renters to familiarize them with the fact that the residence is connected to an OWTS, what precautions must be utilized to protect the OWTS, and how the misuse of the OWTS may cause health risks and have significant impacts of the environment. A contact number for service for the OWTS system in the event of problems would also be included.

STR Permit Fees

The Council requested information regarding the potential fee that could be set for the new STR Permit. All permit fees must be based on an analysis of actual costs to process the permit and enforce the permit requirements. These costs include staff time and overhead to administer the program, the City's contract with Host, and the cost to

[4] This change would be accomplished by amending MMC Chapter 15.44, which was adopted by City Council (Ordinance No. 435) on August 27, 2018 and does not yet appear in the online version of the MMC.

provide additional law enforcement personnel to monitor short-term rentals. Various City personnel are needed to administer the Host contract, monitor the Host system, review permit applications, track TOT, and address code enforcement issues. Based on an analysis of all the associated costs, staff recommends charging $400 for STR Permits.

According to data compiled by Host Compliance, the majority of Malibu's short-term rentals are listed for over $400 per night. Thus, the cost of the proposed permit fee can be quickly recouped and is not likely to discourage property owners from obtaining a STR Permit. A fee that is too high is likely to lead to individuals renting their properties illegally or more often in order to recoup the money spent on the fee. To get an understanding of established STR Permit fee rates and provide a benchmark for discussion, staff researched STR Permit fees in municipalities throughout the country and found that STR Permit fees typically range from $25 to $949 annually - although fees in the upper tier often involved significantly more staff time than the proposed draft ordinance before the Council. The City's proposed STR Permit fee falls well within this range.

Processing STR Permit Applications

In its deliberations, Council discussed whether all STR Permit applications should have a single annual application and renewal date, or whether applications and renewals would be more easily handled on a rolling basis throughout the year. Staff recommends that permit applications be submitted and approved on a rolling basis. This will help minimize the additional work involved with implementing the permit system by spreading application review and processing out throughout the year. The Host system can track the annual term of an individual's permit, including any citations and tax remittance, on a rolling basis.

Phasing in the Permit System

In recognition of the fact that short-term rentals are often booked far in advance and in order to give people enough time to prepare their STR Permit Applications, staff is recommending that the ordinance go into effect six months after final adoption. This means that within six months of the final ordinance adoption date, any individual conducting short-term rental of property must obtain a STR Permit. Similarly, any individual conducting short-term rental of property who fails to obtain a STR Permit must cease the short-term rental of the property within six months. During the six-month period, the City will conduct outreach to hosts and those registered for TOT about the new ordinance and will work with Airbnb and other platforms to notify their hosts.

Draft Ordinance

Following is a summary of the changes incorporated into the draft ordinance (Attachment A) at Council's direction following the July 9, 2018 meeting.

1) All guests must park on site, unless the property does not have onsite parking, in which case guests are limited to parking one vehicle on the street. If street parking for more than one vehicle is necessary, a special event permit (SEP) must be obtained.
2) Creates 3 types of permits: primary resident, non-primary resident and multifamily.
3) A multifamily permit allows a maximum of two units to be rented on a multifamily property, but only if all other units have been rented on a long-term basis.
4) A non-primary resident permit only allows the short-term rental of property between April 1 and September 30 each year and may be revoked or denied for two citations/violations instead of 3.
5) Condominiums shall be eligible for primary resident/non-primary resident permits, but not multifamily permits, if such use is allowed by the community's CC&Rs.
6) To demonstrate primary residency an applicant must provide proof he or she lives on the property and claims it as a primary residence for at least 185 days per year.
7) All short-term rental applicants shall be required to acquire an OWTS operating permit if the property does not already have a permit or be in compliance with an approved compliance agreement.
8) Creates a violation for fee-collecting platforms that facilitate illegal short term rentals.
9) Requires attestation that the short-term rental of property is not prohibited by CC&Rs/HOA, and that the applicant provide notice to the HOA that the property will be rented on a short-term basis.
10) The STR Permit fee shall be $400.
11) STR Permit applications shall be processed on a rolling basis throughout the year.
12) The ordinance will go into effect six months after final adoption.

Implementation and Enforcement of the Proposed Ordinance

The City has already taken significant steps to increase enforcement resources but will increase enforcement and education efforts with the implementation of the new ordinance. An array of tools and resources will be used, depending on the nature of the activity. These tools and resources include:

- City Code Enforcement Staff. The current enforcement structure includes three full-time code enforcement officers available to address short-term rental issues along with other code violations. With Host's software system in place, the City's code enforcement officers can effectively monitor and enforce short-term rental rules. Host's system can accurately identify properties that list short-term rentals so that staff can work with owners to come into compliance. This work would generally occur during business hours. A specific Code Enforcement Officer will be the designated point of contact for short-term rental issues.

- Host Compliance System. The system includes an automated hotline and web portal that will enable community members to register complaints at any time, upload photos and video files, and document and track all complaints received for reporting to City staff. Each STR Permit holder will provide a twenty-four hour, seven days a week contact person that will be registered with Host's online system. When a complaint is submitted to Host either online or through its phone system, Host's hotline system will generate a call to the responsible party on file to alert them of issues at the rental property. Failure to answer the call would be a violation of the ordinance subject to penalties.

  It is expected that since such a violation would count against the limits of the property owner's STR Permit that can trigger revocation, property owners will be incentivized to answer the call and quickly address any problems at the property. The Host system gives callers the option to request a call back within 30 minutes so they can comment on whether the situation has been resolved. If the situation has not been resolved within 30 minutes, the caller may request to be connected with the local non-emergency police line and a record of the complaint will be sent to the City's Code Enforcement staff to follow up during normal business hours.

  If the complaint results in the issuance of a police or code enforcement officer citation, a violation will be recorded and would count against the limits of the property owner's STR Permit that can trigger revocation.

- Platforms may not profit from facilitating illegal short term rentals. The ordinance now creates a violation for fee-collecting platforms if they facilitate illegal short

term rentals. Such platforms will be subject to penalties if they violate the ordinance by allowing an illegal rental to be booked through their platform.

- Sheriff STR Team. After discussions with the Sheriff's Department, it was determined that short-term rental issues related to loud, unruly, late-night parties, noise violations and similar issues which are likely to occur outside of normal business hours are best handled by local law enforcement. Law enforcement personnel receive extensive training on handling potentially volatile situations, making them better suited than City Code Enforcement staff to address any such issues that may arise outside of normal business hours.

  Sheriff deputies are not only the most appropriate personnel to handle these situations but also the most cost effective. Assigning Sheriff deputies to perform late night and weekend patrol would be less expensive than hiring additional City Code Enforcement personnel to be available during weekend evenings. Staff is proposing that the City incorporate an additional patrol unit on designated, but unpublished, weekends and weekday nights to focus on short-term rentals, particularly during periods when significant short-term rental activity is anticipated.

  The STR patrol would consist of two Sheriff deputies in a dedicated patrol car with additional training and focus on short-term rental, special event permit and noise ordinances. This will ensure that law enforcement is available to respond to short-term rental complaints during the City's peak rental period. The cost to provide this additional patrol unit is estimated to be approximately $66,000 and would be funded with the proceeds from the STR Permit fees. If approved, an amendment to the Fiscal Year 2018-2019 expenditure budget will be necessary and an item will be included in the mid-year budget amendments.

City staff contacted representatives from a wide range of municipalities in popular tourist destinations currently dealing with staffing and enforcement protocols for short-term rentals. Based on those discussions, staff believes that the City's current staffing levels with augmentation from Host and the Sheriff's Department are sufficient to adequately address short-term rental compliance and enforcement needs at this time given the current scale of short-term rentals and the ordinance provisions proposed.

Once Host's comprehensive system is fully up and running and tracking all the short-term rental data and complaints received, the City will have more information which can be used to inform staffing and enforcement needs going forward.

PUBLIC NOTICE: On August 30, 2018, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was

mailed to all interested parties; and all owners/operators currently registered with the City's TOT Program (Attachment D). In addition, posts were made on the City's social media platforms and print ads were published in the local newspapers.

SUMMARY: Staff recommends that the City Council introduce the draft ordinance on first reading and direct staff to schedule the second reading or provide direction on changes to the ordinance to be reviewed at a future hearing.

ATTACHMENTS:

A. Proposed Ordinance No. 436
B. July 9, 2018 Council Report
C. Multifamily and Commercial Zoning Map
D. Notice of Public Hearing

ORDINANCE NO. 436

AN ORDINANCE OF THE CITY OF MALIBU ADDING CHAPTER 17.55 TO THE MALIBU MUNICIPAL CODE IMPLEMENTING REGULATIONS FOR THE SHORT-TERM RENTAL OF PROPERTY IN THE CITY

The City Council of the City of Malibu does hereby ordain 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, 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on 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 in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 finding that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.. The Commission further recommended that if, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, that

the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. Council directed staff to revise the ordinance and return with additional information at the September 11, 2018, Regular City Council meeting.

J. The September 11, 2018 Regular City Council Meeting was cancelled.

K. On August 30, 2018, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; homeowners associations on record with the City; regional, state and federal agencies affected by the amendment; local libraries and media; and the California Coastal Commission.

L. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is 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, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of thirty (30) consecutive days or less to a transient.

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

Section 17.55.010 Short-term Rental Permit Required.

A. Short-term rental of property , is prohibited unless conducted in strict compliance with the requirements of this chapter by an owner who possesses a valid short-term rental permit. No person or entity shall collect a fee or any compensation in connection with reservation or payment services that facilitate the short-term rental of property in the city except for properties where the owner possesses a valid short-term rental permit that would allow the short term rental that is facilitated..
B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit.
C. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:

1. Contact information for the owner of the property
2. Contact information for the owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, who is available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any person staying at the property to answer calls from the City, an agent authorized by the City to make such calls, or a person who is renting the property.
3. A copy of a valid OWTS permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.020(C) paired with an attestation that the applicant is in full compliance with the compliance agreement and not in default or breach.
4. Attestation and agreement to comply with the requirements of this Chapter.
5. Proof that the owner and operator of the rented property is in compliance with Chapter 3.24 of this code.
6. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property.
7. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that applicant has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the applicant maintains a short-term rental permit for the property.
8. The location of all rental units that will be rented on a short-term basis; no more than two rental units may be approved for short-term rental on a legal lot.
9. The type of short-term rental permit sought: primary resident, non-primary resident, or multifamily.
10. If seeking a primary resident short-term rental permit, proof of primary residency and attestation that the location is the applicant's primary residence, meaning that the applicant lives in a unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the applicant's primary residence for the duration of the permit shall suffice.
11. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants. Copies of the leases for all tenants, and proof of ownership of entire building must be provided within 10 days of a request for such information.
12. Identification of all dwelling units that will be rented on a short-term basis.

D. Review and Approval. Short-term rental permits shall be subject to the approval of the City the City Manager or her/his designee.

E. Notice of Approval. The Planning Director shall provide, at the owner's expense, the contact information for the owner's agent identified in (C)(2) above to all dwelling units within five hundred (500) feet of the parcel boundary.

F. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

G. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.

H. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:
   1. The applicant has not paid all transient occupancy tax due or is not in compliance with Chapter 3.24 of this code.
   2. The property has any outstanding code enforcement violations.
   3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
   4. The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
   5. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter including, but not limited to, situations where the OWTS requirements of Section 17.55.020(C) have not been met.
   6. The property has received more than two citations for violation of the City's noise ordinance within a period of twelve (12) consecutive months.

I. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.

J. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted

17.55.020 Specific Requirements for Short-term Rentals.

A. The following requirements shall be strictly adhered to by those conducting the short-term rental of property. In addition to all other penalties and remedies, a short-term rental permit application (or renewal application) may be denied or revoked where a holder of a Primary Resident Permit receives a total of three (3) citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months, or where a holder of a Non-Primary Resident Permit or Multifamily Permit receives a total of two (2) citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months.
   1. All persons present at the property during a period when there is a short-term rental of a property must park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces are exempt from this requirement, but no more than one (1) vehicle may be parked on the street by persons present at the property during the short-term rental of the property.
   2. The owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, must be available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any person staying at the property. The owner's agent must be available to answer a call to this number from the City, an agent authorized by the City to make such calls or a person who is renting the property.
   3. Owner or owner's agent 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 her/his designee for purposes of inspection or audit.

4. Owner or owner's agent shall provide all persons staying at the property 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.
5. 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 fourteen (14) people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
6. The short-term rental permit number must be prominently posted on all advertisements for the short-term rental of the property.

B. No person shall offer, facilitate an offer, or allow short-term rental of property in any location not specifically identified and approved on a short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage. In addition to all other remedies, violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

C. Short-term rental of property is prohibited on any property unless the owner of the property (1) has obtained a valid OWTS operating permit for the property pursuant to Chapter 15.44 or (2) has entered a compliance agreement with the City excusing such compliance, and is in compliance with the compliance agreement and not in default or breach. In addition to all other remedies, a violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

17.55.030 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Primary Resident Permit. A primary resident owner may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. To be eligible for this type of permit the primary resident owner applicant must provide proof of primary residency in a form acceptable to the City Manager and an attestation, under penalty of perjury, that the location to be permitted is the owner's primary residence. Multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that primary resident owners of condominiums may obtain this type of permit for the unit where he or she has established his or her primary residence.

B. Non-Primary Resident Permit. An owner may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the

permit is valid even if the permitted location is not the owner's primary residence. Property subject to this type of permit may only be rented on a short-term basis during the period between April 1 and September 30 each year. Multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that owners of condominiums may obtain this type of permit.

C. Multifamily Permit. Owners of entire multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two (2) units in the building so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

17.55.040 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal must shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.050 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant and location for a twelve month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.020, (3) more than two (2) citations for violation of the City's noise ordinance in a period of twelve (12) consecutive months for holders of a Primary Resident Permit, or (4) more than one (1) citation for violation of the City's noise ordinance in a period of twelve (12) consecutive months for holders of a Multifamily or Non-Primary Resident Permit, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation.
C. The short-term rental of property (or advertisement or offer of such rental) after denial or revocation of a short-term rental permit shall result in the property and applicant being

ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.

D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.060 Revocation.

A short-term rental permit may be revoked if a preponderance of the evidence demonstrates that the property or permit holder is in violation of Section 17.55.010(H) or 17.55.020.

17.55.070 Appeals.

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.
D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 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. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code committed by persons at the property during a period when the property is rented on short term rental basis.

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 3. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be prior to or concurrent with the application for a short-term rental permit. An operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 4. Zoning Text Amendment Findings.

The City Council 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

SECTION 5. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or

constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 7. Effectiveness.

This Ordinance will become effective on April 1, 2019, following its passage and adoption.

SECTION 8. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this _____ day of October 2018.

_____
RICK MULLEN, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk

Date: _____

APPROVED AS TO FORM:

_____
CHRISTI HOGIN, City Attorney

City Council Meeting
03-26-18
Item
4.A.

Council Agenda Report

To: Mayor Mullen and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: June 28, 2018 Meeting date: July 9, 2018

Subject: Short-Term Rental Ordinance

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on the first reading Ordinance No. 435 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act, amending Title 17 of the Malibu Municipal Code (MMC) and adding Chapter 17.55 (Short-term Rental Ordinance) to MMC Title 17 (Zoning) to establish provisions to regulate short-term rentals of property citywide; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 435 for the July 23, 2018 Regular City Council Meeting.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

DISCUSSION: The proposed Short-Term Rental Ordinance is intended to clarify the existing prohibition on short-term rentals in multifamily buildings, set minimum standards and requirements for the short-term rental of property and preserve neighborhood character. The ordinance was drafted based on direction provided by City Council and has been revised through the legislative process to reflect the comments received from the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES), the Planning Commission and members of the public, while keeping to the original Council direction.

This report provides a brief background on short-term rentals in Malibu, provides data on the current short-term rental market, presents the Planning Commission's recommendation from the May 7, 2018 Planning Commission Meeting, addresses the concerns raised by the Planning Commission, provides an overview of the draft ordinance, and discusses potential implementation and enforcement of the proposed ordinance.

Background

Short-term rental of residential property is currently allowed in single-family homes in the City so long as such rental complies with the MMC, the property is registered with the City, and Transient Occupancy Tax (TOT) is properly remitted.[1] This includes MMC regulations addressing parking, noise, special event gatherings (permit needed for events with 15 or more people) and nuisance issues.

Short-term rental of residential property has long been a practice in Malibu and predates the City's incorporation in 1991. For many years, rentals were handled directly by owners or with the assistance of real estate agents or brokers. With the rise of internet platforms such as Airbnb, VRBO, Homeaway and others in the last decade, the short-term rental process has become more convenient, efficient and robust and, as a result, property is rented on a short-term basis more frequently.

The MMC includes Chapter 3.24 titled "Uniform TOT Ordinance of the City of Malibu." In 2009, the City began the collection of TOT on the short-term rental of private homes in accordance with Chapter 3.24. A short-term rental is generally described in MMC Chapter 3.24 as the rental of a structure for 30 consecutive calendar days or less. This includes any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, rental unit, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof, and shall further include any trailer court, camp, park or lot where trailer spaces, or combinations of such spaces and trailers, including mobilehomes, are occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes.

In April 2015, Airbnb began collecting and remitting TOT for the properties in the City that are rented through its website, some of which are also registered directly with the City.

Current Market Landscape

There are currently a total of 408 properties that are remitting TOT for short-term rental of property. Of the 408, 220 are registered directly with the City and 188 are registered through Airbnb.

[1] MMC Chapter 3.24 requires owners and operators of short-term rental properties to register their property with the City and remit TOT on a quarterly basis. It also authorizes the City to collect TOT when a hotel, motel or residential home is occupied for 30 consecutive calendar days or less. The tax rate is 12 percent of the amount charged. Registration is a one-time $25 fee and taxes are collected on a quarterly basis. If an owner or operator fails to remit TOT as required the City may impose interest and penalties on the amount owed.

In Fiscal Year 2016-2017, the City received $1.8 million in tax revenue from short-term residential rentals. In Fiscal Year 2017-2018, the City expects to receive $1.8 million.

Given the rapid growth of online rental platforms which facilitate the short-term rental of property, it is highly likely that there are properties in Malibu that are used for short-term rental that are not registered with the City or with Airbnb.

In order to gather more accurate data and gain better oversight of short-term rentals, the City issued a Request for Proposal for short-term rental administration in winter 2017. On February 13, 2018, the City entered into a contract with Host Compliance (Host). Host has a proprietary software service that collects data weekly across the top 50 short-term rental listing sites. All the data collected on short-term rental listings, including reviews, calendar information and photos, is then aggregated, de-duplicated and documented by the Host program. Host has been collecting information on short-term rentals in Malibu for the past several months. From the information gathered thus far, Host has developed some preliminary data on the current Malibu short-term rental market which it can compare to some historical data points and provide a fuller context with which to understand current dynamics and review potential policy changes.

Many owners advertise their short-term rental units on multiple websites. Owners can change their listings at any time and, to address this, Host updates its data on a weekly basis and is regularly tracking market trends. As of June 22, 2018, Host identified 945 listings in Malibu. Of the 945 listings, Host identified 522 unique rental units.[2] This data suggests over a hundred rental units are currently not registered with the City. Monitoring by Host will facilitate identification of unregistered owners and increase compliance.

Data from Host indicates the majority of Malibu's short-term rentals are large, single family homes. Approximately 94 percent of the City's short-term rentals are for entire homes[3] and approximately 74 percent are for single family residences. Approximately 62 percent of the City's entire home short-term rental units are three bedrooms or more. In fact, approximately 20 percent are five bedrooms or more. The majority of the City's short-term rentals rent for over $400 a night. The relatively unique composition of Malibu's short-term rental housing stock has less of an impact on affordable housing than in other communities that have more diversified listings at lower average costs.

To provide a broader context for the current figures on short-term rentals, staff researched the total number of housing units in the City. Where the General Plan estimated that there were over 4,000 single-family homes in Malibu, the California

[2] Units in multifamily buildings are counted as separate and distinct units.
[3] This includes instances when homeowners rent out accessory dwelling units, duplex units, etc. (where the unit is listed as an "entire home" rental) but the homeowner is actually next door for the duration of the stay.

Department of Finance estimates that there were 6,907 total housing units in Malibu as of January 1, 2017, of which 5,373 were single-family homes (including detached and attached).

Legislative Review

On November 9, 2015, in response to complaints from residents regarding a particular single-family home being used for short-term rental, the Council directed staff to develop options for regulating short-term residential rental property owners who misuse the property or cause a nuisance in the neighborhood.

On February 8, 2016, the Council reviewed a range of enforcement mechanisms from a ban of all short-term residential rentals to limits on rentals, such as restricting the number of days per year a property can be rented, or instead, strictly enforcing noise and nuisance ordinances already on the books to deal with problem rental properties. The Council voted not to ban short-term rentals, but rather to allocate more resources to help prosecute violations of the MMC, and particularly the City's noise ordinance, special events permit requirements, and parking codes and authorized a contract for on-call monitoring services of short-term residential rentals with SWS, Inc.

On June 16, 2016, the Council received an update on issues related to short-term residential rentals. Council directed staff to bring back an item exploring ordinances regulating short-term rentals, including primary residency requirement of hosts, code violation consequences, licensing of short-term rentals, occupancy limits, fines structure and methods of enforcement.

On October 10, 2016, the Council reviewed options for regulating short-term residential rentals and directed staff to bring back a draft ordinance that included:

1. A ban on short-term rental properties with outstanding code enforcement violations, as well as the advertisement of such properties, with each violation of the ban resulting in the ban extending an additional six months from the date the enforcement violation is cured;

3. A ban on the short-term rental of multifamily housing, except for home sharing (where the owner is present on the property during the stay), which prevents this housing from being converted to hotel/motel use;

4. A limit on the number of days a property can be rented;

5. Requirement of proof of primary residence at the property, or that the host live at the property for a certain number of days a year;

6. A requirement that rentals meet certain standards, e.g. annual inspections, onsite parking for all guests, handicapped access on the property and in the home, compliance with all fire safety and occupancy codes, requiring onsite manager or that the manager is available 24-7; and

7. A requirement that CC&Rs for future developments and/or major remodels in the City to include provisions banning short-term rentals.

Staff drafted an ordinance based on the direction provided by Council and presented it to ZORACES (Attachment 3) for discussion and feedback.

On May 23, 2017, ZORACES discussed the proposed ordinance and recommended that staff draft an ordinance to include the following:

1. Prohibition of short-term rentals and home sharing in the Multi-Family Residential zone for complexes with three or more units:

2. A requirement for signage indicating 24 hours per day, seven days per week contact information for a designated manager, visible to the public at all times;

3. A requirement for compliance terms to be met or revocation of rental privileges be imposed for six months, to be increased upon lack of further compliance, which could lead to criminal penalties if compliance is ultimately not met; and

4. A requirement that homeowners attest when they register that their homes have smoke detectors with an inspection provision;

The Subcommittee also recommended that staff research:

- Covenants, conditions, and restrictions of homeowners associations that could provide examples for communities that would like to create privately enforceable restrictions;

- Whether the owner should be allowed to be the designated manager;

- Examples of types of contact information signage used in other communities;

- The cost to fund one or two full-time positions related to enforcement;

- The need for an inspection program for wastewater treatment systems; and

- Hosting guidelines that could be provided to TOT registrants, similar to the Filming Code of Conduct for film permits.

Staff revised the proposed ordinance based on the recommendations provided by ZORACES and presented it to the Planning Commission at a duly noticed public hearing. On November 20, 2017, the Planning Commission reviewed and made comments on the draft short-term rental ordinance; however, the Planning Commission did not make a motion or reach consensus at the meeting.

Staff categorized all the comments received by the Commissioners, prepared responses to address all Commissioners' comments by category and made adjustments to the proposed ordinance (Attachment 3). On May 7, 2018, the Planning Commission held a public hearing to review the revised ordinance and made two motions as follows:

- Directed staff to prepare a resolution stating that the Planning Commission recommends that the City Council find that the short-term rental of property is currently prohibited in all residential zones in the City and adopt an ordinance memorializing that prohibition; and

- Directed staff to include in the resolution a recommendation that if a ban on the short-term rental of property was not put in place, a CEQA environmental study be prepared if necessary.

Planning Resolution No. 18-26 is attached (Attachment 2).

Below, staff has categorized comments received from the Planning Commissioners and members of the public and prepared the responses below.

<u>May 7 Planning Commission Meeting Comments</u>

Commercial Use of Property in Residential Zones
Concerns were raised about whether short-term rentals constituted a commercial use in residential zones. The justification for allowing short-term rental of property in a residential zone is that like long-term rental of property, money is collected in exchange for allowing occupancy of a dwelling unit. In that way, long-term rental of property is a revenue-generating use of property just like short-term rental. Also, similar to a long-term rental, the property owner or manager may or may not be onsite or local. Both long-term and short-term rental of residential property is currently allowed in Malibu. The primary difference is the length of time the occupants stay in the dwelling unit. Under the proposed ordinance, restrictions on short-term rental units would be greater than those for dwelling units occupied on a permanent or longer term basis in order to address

concerns that have been expressed about short-term occupancy. For example, unlike units occupied by long-term tenants, for short-term rental properties:

- Contact information for the owner or owner's agent must be provided to the City and neighbors within 500 feet, and will be made available to Host so they can notify the owner of complaints
- The owner or owner's agent must be available 24 hours a day, seven days a week while the unit is in use as a short-term rental
- Parking must be onsite. For long-term occupied units, there are no restrictions on parking.
- Occupancy by more than 14 people requires a special event permit (SEP). For a long-term occupied unit, there is no limit on occupancy and a SEP is only needed for an event with 100 or more attendees.

Corporate Ownership of Residential Homes
Concerns were raised about the potential for corporations, investment groups or individuals to buy properties for the sole purpose of short-term rental. The extent to which this is currently occurring is unknown. However, based on registration data, it does not appears to be a widespread local phenomenon. As Host continues to monitor short-term rentals and refine its data, the City will have better information regarding this topic which can be reported to City Council and used to guide future policy. If corporate ownership is determined to be a problem, there are a number of policies that the City could consider adopting that could potentially inhibit the growth of short-term rental investment properties. These policy options include, but are not limited to, requiring that only individuals can register for short-term rental and putting a limit on the number of properties a single person or entity can register for short-term rental. Research shows that many of these regulatory policies are difficult to enforce and there are many ways in which corporate entities or individuals can work around these regulations. Depending on further direction from City Council, the City could evaluate these policies for implementation if needed in the future.

Definition of Multi-Family Residence
Questions were raised as to why the ordinance defines multi-family residence as a building with three of more dwelling units. This definition of multi-family residence is already established in MMC Chapter 17.02.060. The proposed ordinance is designed to clarify and be consistent with existing codes and thus relies on the existing definition of a multi-family residence. Based on this language, short-term rentals could occur at single-family and duplex properties only. The Council could choose to change this definition for purposes of the STR ordinance. For example, several owners of multi-family buildings asked that the definition be changed to increase the number of units to more than four. Other types of definitional changes suggested would allow some short-term rental within multi-family buildings. Such changes would make the proposed ordinance less restrictive

than the City's current ban on multi-family unit rentals but would put the City's affordable housing at greater risk.

Primary Residence Requirement
A primary residence requirement on short-term rentals was suggested by some in an effort to limit the number of short-term rentals in the City. This requirement was included in the original draft of the proposed ordinance that was presented to ZORACES on May 23, 2017. During the discussion at the May 23, 3017 ZORACES meeting, it was determined that this requirement was problematic due to the number of Malibu residents who own more than one home. At the recommendation of the Subcommittee, the primary residence requirement was removed from subsequent drafts of the proposed ordinance.

Permitting System
Use of a permitting system, rather than a registration program, was suggested to strengthen the City's ability to regulate short-term rentals and revoke rental privileges. The draft ordinance has been revised to incorporate a permitting system. Further discussion of the proposed permitting system will be included in the next section of the report.

Occupancy Rates
The proposed ordinance establishes a maximum number of occupants based on the number of bedrooms in a rental unit. One of the major reasons that occupancy limits are being proposed is so existing onsite septic systems designed for single family residences are not overwhelmed by the number of occupants in a short-term rental. The presence of children and babies increases demands on septic systems.

Short-Term Rental Code of Conduct
A Code of Conduct has been developed to provide short-term renters rules and regulations associated with short-term rentals (Attachment 4) including:

- *Emergency Concerns:* Short-term renters may be unaware of Malibu's fire dangers, emergency protocols and evacuation routes. Additional emergency information will be included in the Short-Term Rental Code of Conduct.
- *Septic System Concerns:* Short-term renters may be unaware of septic system requirements. Additional information on septic systems will be included in the Short-Term Rental Code of Conduct.

Noise and Neighborhood Nuisance Issues
The ordinance has been revised to include several provisions to ensure that neighbors' concerns are addressed more quickly and that violations of noise and other regulations can result in the revocation and denial of a short-term rental permit for an extended period of time.

California Environmental Quality Act

The Planning Commission expressed concern about potential impacts of short-term rentals and recommended that if a ban were not put in place,that CEQA analysis be required for the proposed ordinance to analyze these effects depending on what ordinance was put in place. At the direction of Council, any such issues could be more fully explored in studies not limited the areas of concern under CEQA, but staff's analysis of the proposed ordinance is that it is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines as it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and those that would apply to owners and long-term renters. For example, when not in use as a short-term rental, a three-bedroom house could be occupied by any number of tenants and its tenants and guests could park any number of cars on the street. It would not be limited to eight tenants, as a short-term rental would be, nor would it be constrained to parking on the property. The proposed ordinance does not expand the ability to rent property on a short term basis; it does the opposite, so any environmental impacts related to short-term rentals would be reduced by this ordinance, not increased.

Draft Ordinance

The ordinance was drafted based on direction provided by the City Council and has been revised through the legislative process to reflect the comments received from ZORACES, the Planning Commission and members of the public, while keeping to the original Council direction. Throughout the process, the intent of the ordinance remained the same: to clarify the existing prohibition on short-term rentals in multifamily buildings, set minimum standards and requirements for the short-term rental of property and preserve neighborhood character. The main points of the draft ordinance (Attachment 1) are summarized here.

1) Institutes a permit system where the owner of a short-term rental property must possess a valid Short-Term Rental Permit (STR Permit). Each permit will be assigned a unique number, and a separate permit application is required for every rental unit.

2) The STR Permit Application shall include contact information for the owner or owner's agent. The owner or owner's agent must be available to answer calls from the City and deal with any problems at the short-term rental property twenty-four hours a day, seven days a week.

3) The STR Permit Applicant shall attest that they are in compliance with all requirements of the Short-Term Rental Ordinance, MMC Chapter 3.24, including compliance with all applicable codes regarding fire, building and safety and other relevant laws, as well as the requirement that there are no outstanding code violations on the property.

4) The STR Permit is valid for one year and must be renewed annually.

5) The contact information for the owner or owner's agent shall be provided to all properties within 500 feet of the parcel boundary at the owner's expense. This is intended to provide neighbors a point of contact to informally raise or resolve concerns. This requirement was included in lieu of signage due to potential security risks associated with identifying a property as a rental.

6) The property must have onsite parking for all guests, unless the property does not have onsite parking, in which case guests are limited to parking two vehicles on the street. If street parking for more than two vehicles is necessary, a special event permit (SEP) must be obtained. This requirement is designed to limit overflow on-street parking as the SEP would count against the maximum of four events allowed each year per residential parcel.

7) Owner or owner's agents is required to grant City representatives access to the property and records if needed for inspection or audit.

8) The owner shall provide a Short-term Rental Code of Conduct prepared by the City, intended to provide important information, including rules and expectations for conduct, to all guests and post it inside the entrance to the dwelling. A draft Code of Conduct is included as Attachment 3.

9) The maximum occupancy of short-term rental units is designed to coincide with the number of bedrooms in the dwelling unit. The maximum occupancy is limited to two people more than twice the number of bedrooms of record, up to 14 people max. This is consistent with the requirement of MMC Section 5.34.020(C) to obtain a special event permit if a short-term rental is proposed to accommodate 15 people or more.

10) The STR Permit Number shall be displayed on all short-term rental advertisements. This will facilitate monitoring and enforcement of short-term rentals.

11) The STR Permit can be denied or revoked if the applicant is found to have knowingly made false statements in the application.

12) The STR Permit can also be denied or revoked if the property is found to have not paid TOT due, has outstanding code violations, does not comply with all applicable codes, is not in the condition to be rented on a short-term basis or if the property has received more than two citations for noise violations within a consecutive twelve month period.

13) The STR Permit can also be denied or revoked if a total of three citations for violation of any combination of the following requirements occur within a consecutive twelve month period: parking, responsiveness, access, posting of the Code of Conduct, maximum occupancy and listing the permit number on all advertisements.

14) Short-term rental of any vehicle, trailer, tent, storage shed, garage, or other such premises is explicitly prohibited. This provision specifically clarifies the existing ban on individuals offering Airstreams, tents and similar places as vacation rentals.

15) A ban on short-term rentals in multifamily buildings containing three or more units, except for home sharing (where the owner is present on the property during the stay).

16) If an application for a STR Permit is denied, a new application cannot be approved for that applicant and location for a twelve month period.

17) If a STR Permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve months from the date of revocation.

18) The short-term rental of property or the advertisement of property for short-term rental after denial or revocation of a STR Permit shall result in the property and the applicant being ineligible to conduct short-term rental of property for an additional six month period for each such rental.

19) It establishes an appeal process for the denial or revocation of a STR Permit and prohibits the appellant from the short-term rental of property when the appeals process is pending.

20) The appeals process includes a hearing to be scheduled before the Planning Commission. The decision of the Planning Commission shall be appealable to the City Council.

21) Violations are subject to fines of $1,000 per day or violation.

22) The STR Permit holder shall be responsible for administrative citations for violations of the municipal code committed by guests at the property.

23) Any violation of this ordinance shall be considered a separate offence for each and every day the violation occurs or persists.

Implementation and Enforcement of the Proposed Ordinance

The City has already taken significant steps to increase enforcement resources. The City now has three full-time code enforcement officers available to address short-term rental issues along with other code violations. In addition, the City has contracted with Host to assist with monitoring and enforcement of short-term rentals. The Host software will enable the City to easily and accurately identify properties that list short-term rentals and work with owners to come into compliance. The system includes a robust hotline and web portal that will enable community members to register complaints at any time and upload photos and video files, and document and track all complaints received for City staff.

If the draft ordinance is approved with the proposed twenty-four hour, seven days a week contact person, Host's hotline system can generate a call to the responsible party on file to alert them of issues at the rental property.

City staff contacted representatives from a wide range of municipalities in popular tourist destinations currently grappling with short-term rentals regarding staffing and enforcement protocols. Based on those discussions, staff believes that the City's current staffing levels with augmentation from Host are sufficient to address short-term rental compliance at this time given the current scale of short-term rentals and the ordinance provisions proposed.

Once Host's comprehensive system is fully up and running and tracking all the short-term rental data and complaints received, the City will have more information to inform staffing and enforcement needs going forward.

PUBLIC NOTICE: On June 14, 2018, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu, display ads were published in the local newspapers, and was mailed to all interested parties; and all owners/operators currently registered with the City's Transient Occupancy Tax Program (Attachment 5).

SUMMARY: Staff recommends that the City Council introduce the draft ordinance on first reading and direct staff to schedule the second reading, or provide direction on changes to the ordinance to be reviewed at a future hearing.

ATTACHMENTS:

1. Draft Ordinance
2. Planning Commission Resolution No.18-26

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal must shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.050 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant and location for a twelve month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of section 17.55.020, or (3) more than two (2) citations for violation of the City's noise ordinance in a period of twelve (12) consecutive months, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall result in the property and applicant being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.
D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.060 Revocation

A. A short-term rental permit may be revoked if a preponderance of the evidence demonstrates that the property or permit holder is in violation of Section 17.55.010(G) or 17.55.020.

17.55.070 Appeals

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 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. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code committed by guests at the property.

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 3. Zoning Text Amendment No. 18-xxx.

The City Council 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

APPROVED AS TO FORM:

CHRISTI HOGIN, City Attorney

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 18-26

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE MEMORIALIZING THAT THE SHORT TERM RENTAL OF PROPERTY IS PROHIBITED IN ALL RESIDENTIAL ZONES OF THE CITY

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

SECTION 1. Recitals.

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

B. On May 23, 2017, the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City Council reviewed a draft ordinance (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

C. 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.

D. On November 20, 2017, the Planning Commission held a duly noticed public hearing on the draft ordinance, 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. The Commission discussed additional information they wished to receive and changes to the draft ordinance.

E. On April 12, 2018, 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.

F. On May 7, 2018, the Planning Commission held a duly noticed public hearing on the draft ordinance, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

SECTION 2. Zoning Text Amendment Recommendations

Pursuant to MMC Section 17.74.040, the Planning Commission makes the following recommendations.

A. The Planning Commission hereby finds that the short-term rental of property is currently prohibited in all residential zones in the City and recommends that the City Council adopt an ordinance memorializing this prohibition.

B. If, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, the Planning Commission recommends that the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

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

PASSED, APPROVED AND ADOPTED this 7th day of May 2018.

CHRIS MARX, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

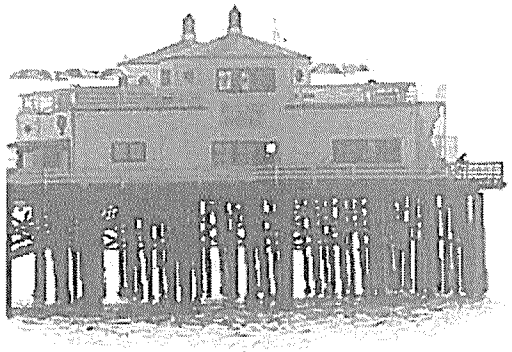
I CERTIFY THAT THE FOREGOING RESOLUTION NO. 18-26 was passed and adopted by the Planning Commission of the City of Malibu at the Special meeting held on the 7th day of May 2018 by the following vote:

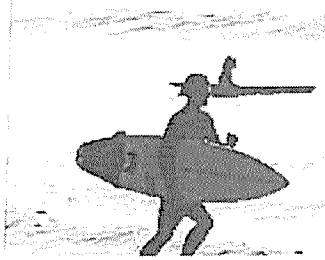
AYES:	3	Commissioners:	Mazza, Uhring, Marx
NOES:	1	Commissioner:	Jennings
ABSTAIN:	0		
ABSENT:	1	Commissioner:	Pierson

KATHLEEN STECKO, Recording Secretary

CITY OF MALIBU

Welcome to the City of Malibu. It is the goal of the City that all visitors and residents are able to enjoy Malibu's natural environment while maintaining its rural residential character. Our Code of Conduct is a way to assist us toward this goal.





ATTACHMENT 4

RESOURCES

SHORT-TERM RENTAL HOTLINE

xxx-xxx-xxxx

CITY CODE ENFORCEMENT

310-456-2489, ext.484

LOS ANGELES COUNTY SHERIFF DEPARTMENT

818-878-1808

LOS ANGELES COUNTY FIRE DEPARTMENT

310-317-1802

MALIBU EMERGENCY & TRAFFIC HOTLINE

310-456-9982

CONTACT US

23825 Stuart Ranch Rd
Malibu, CA 90265

310-456-2489

MalibuCity.org/STR

CITY OF MALIBU

SHORT-TERM RENTAL CODE OF CONDUCT



CITY OF MALIBU

NEIGHBORHOOD IMPACTS

Occupancy:

The maximum occupancy of the short term rental property is limited to two people more than twice the number of bedrooms of record up to 14 people.

Noise:

Please keep all noise levels to a minimum. *(MMC Chapter 8.24)*

Trash:

Please keep trash and recycling containers out of public view until pick-up day and remove all containers from the street and sidewalk no later than 8 PM on collection day. Place containers on the street and sidewalk no sooner than 5:30PM the day before your scheduled collection. *(MMC Section 9.28)*

Parking:

All guests shall park onsite. Garages are required to be available for guest parking. If the property does not have onsite parking no more than two vehicles may be parked on the street.

Special Events:

A Special Event Permit is required in conjunction with a short-term rental if 15 or more people are anticipated to attend. *(MMC Section 5.34.020(C))*

Fines:

Any violation of Malibu Municiple Code Title 17 Chapter 55 is subject to a fine of $1,000 per day or violation.

SHORT-TERM RENTAL CODE OF CONDUCT



Please refer to Malibu Municial Code (MMC) Title 17 for more details regarding the City's Short-Term Vacation Rental Ordinance.

ENVIRONMENTAL REGULATIONS

Plastic Bag Ban:

The City of Malibu has banned the distribution of plastic bags for groceries, pharmacies, restaurants, and retail stores. Please help us to ensure that plastic bags do not end up on the beaches and in the ocean. *(MMC Section 9.28)*

Polystyrene Foam Ban:

The City of Malibu has banned the sale and distribution of foam packaging, food ware, beach toys, ice chests or coolers made from polystyrene. Please refrain from using these polystyrene foam products to help preserve the natural environment. *(MMC Section 9.24)*

Plastic straws and cutlery:

The City of Malibu has banned the sale and distribution of plastic straws and cutlery for groceries, pharmacies, restaurants, and retail stores. Please help us to ensure that plastic straws and cutlery do not end up on the beaches and in the ocean. *(MMC Section 9.28)*

High Risk Fire Hazard Severity Zone:

Malibu is in a very high fire hazard severity zone. Please exercise extreme caution. Get to know your evacuation routes and be prepared to evacuate on short notice in case of wildfire.

Onsite Wastewater Treatment:

Most homes in Malibu rely on onsite wastewater treatment systems (septic systems) rather than traditional sewer systems. Please be mindful of this during your stay.

- Minimize use of garbage disposals
- Use a drain catch and put food waste in the garbage
- Never dispose of the following down the drain: kitty litter, feminine hygiene products, paper towels, diapers, cigarettes, drugs, cooking oil, and grease
- Never dispose of household chemicals into the septic system

DRAFT

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, July 9, 2018, at 6:30 p.m. in the Council Chambers, Malibu City Hall**, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

SHORT-TERM RENTAL ORDINANCE

ZONING TEXT AMENDMENT NO. 17-002 – The Malibu City Council will consider amendments to Title 17 (Zoning Ordinance) of the Malibu Municipal Code and the Planning Commission's recommendations regarding short-term rental of property (also known as vacation rentals) in residential and multi-family zones

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Bonnie Blue, Planning Director (310) 456-2489, extension 258 bblue@malibucity.org

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

A written staff report will be available at or before the hearing. All persons wishing to address the Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents are available for review at City Hall during regular business hours. Written comments may be presented to the City Council at any time prior to the beginning of the public hearing.

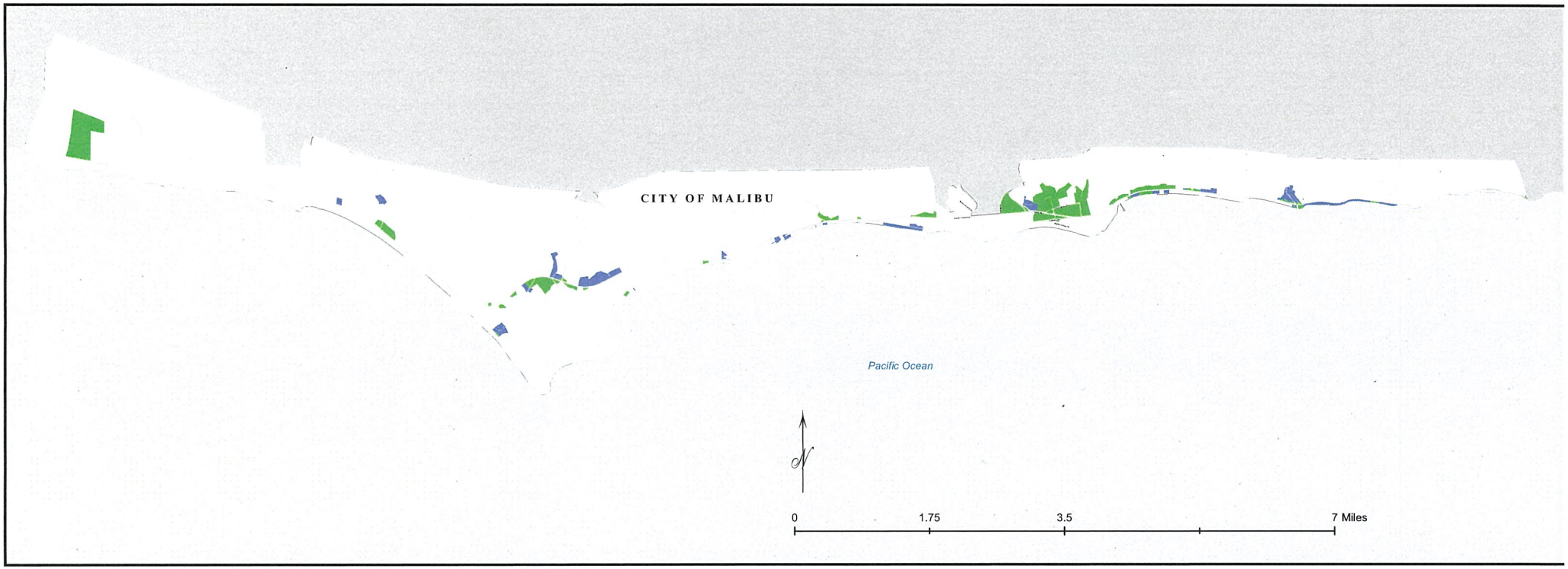
IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Bonnie Blue, Planning Director, at (310) 456-2489, extension 258.

Bonnie Blue
Planning Director

Publish Date: June 14, 2018

Map of Parcels Zoned Multifamily or Commercial



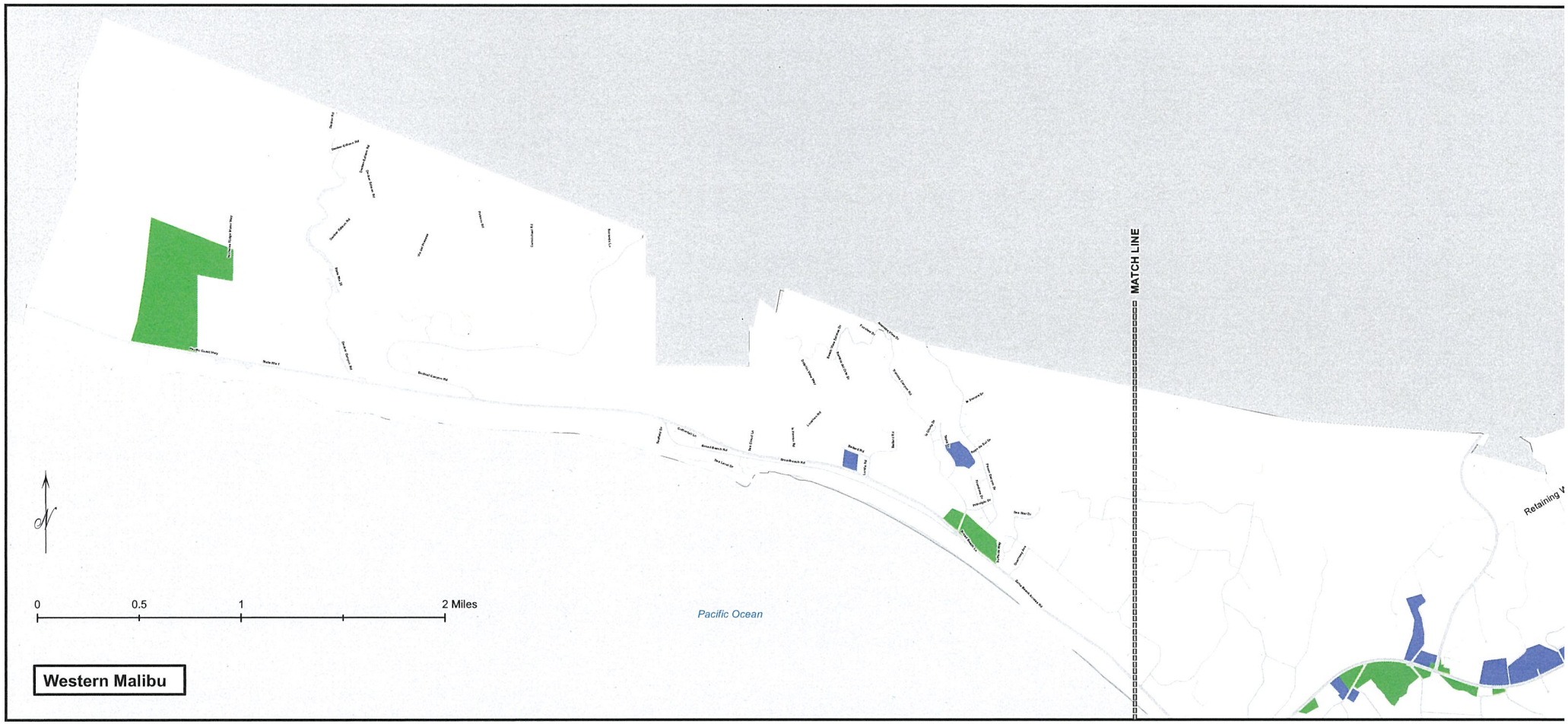
Legend

- Commercial Zones (CC, CG, CN, CR, CV-1, and CV-2)
- Multifamily Residential Zones (MF and MFBF)

Attachment C

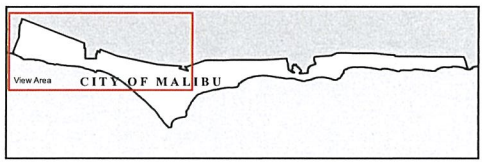
Date Prepared: 9/7/2018

Map of Parcels Zoned Multifamily or Commercial



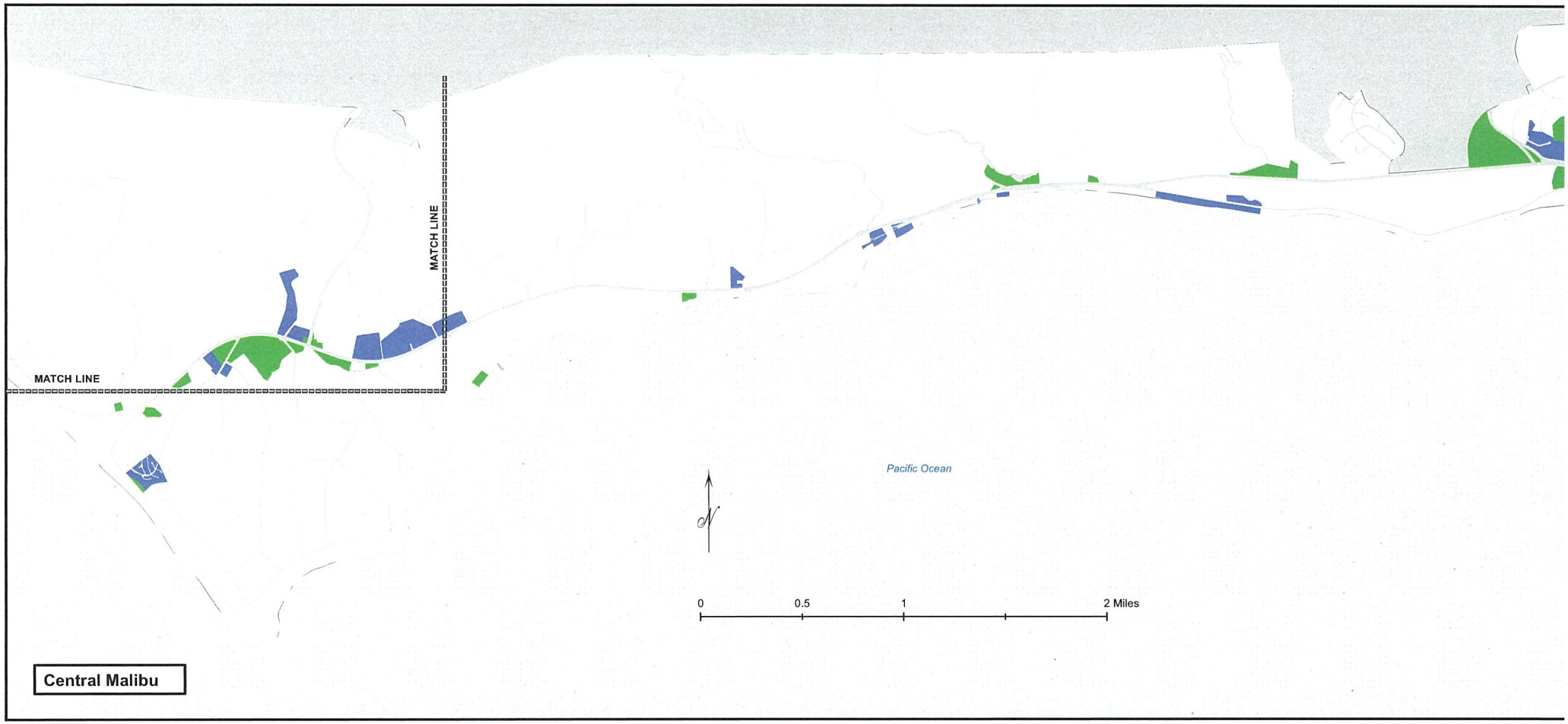
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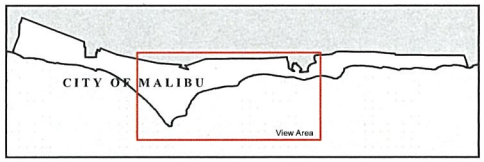
Date Prepared: 9/7/201

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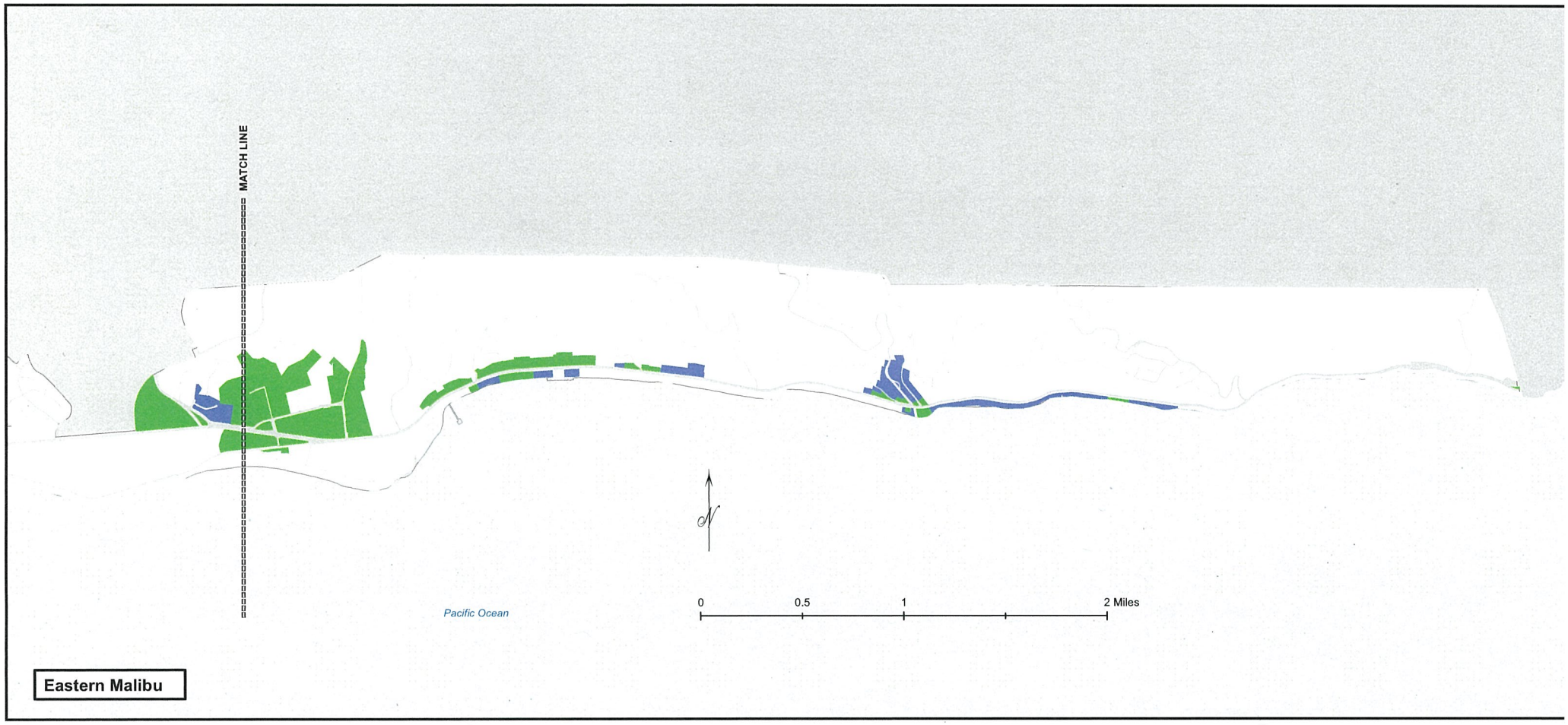
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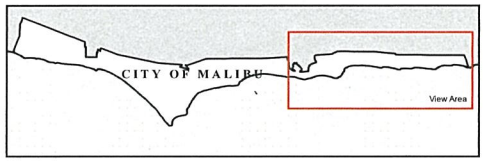
Date Prepared: 9/7/20

Map of Parcels Zoned Multifamily or Commercial



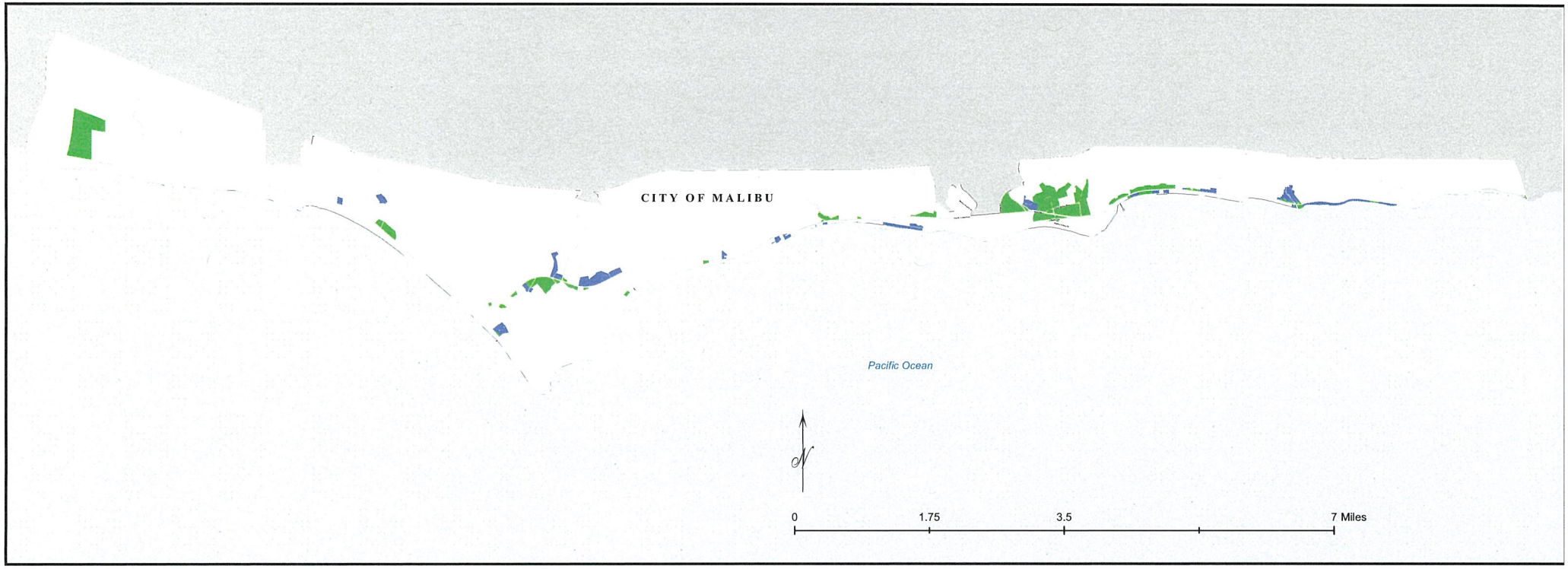
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Date Prepared: 9/7/2018

Map of Parcels Zoned Multifamily or Commercial



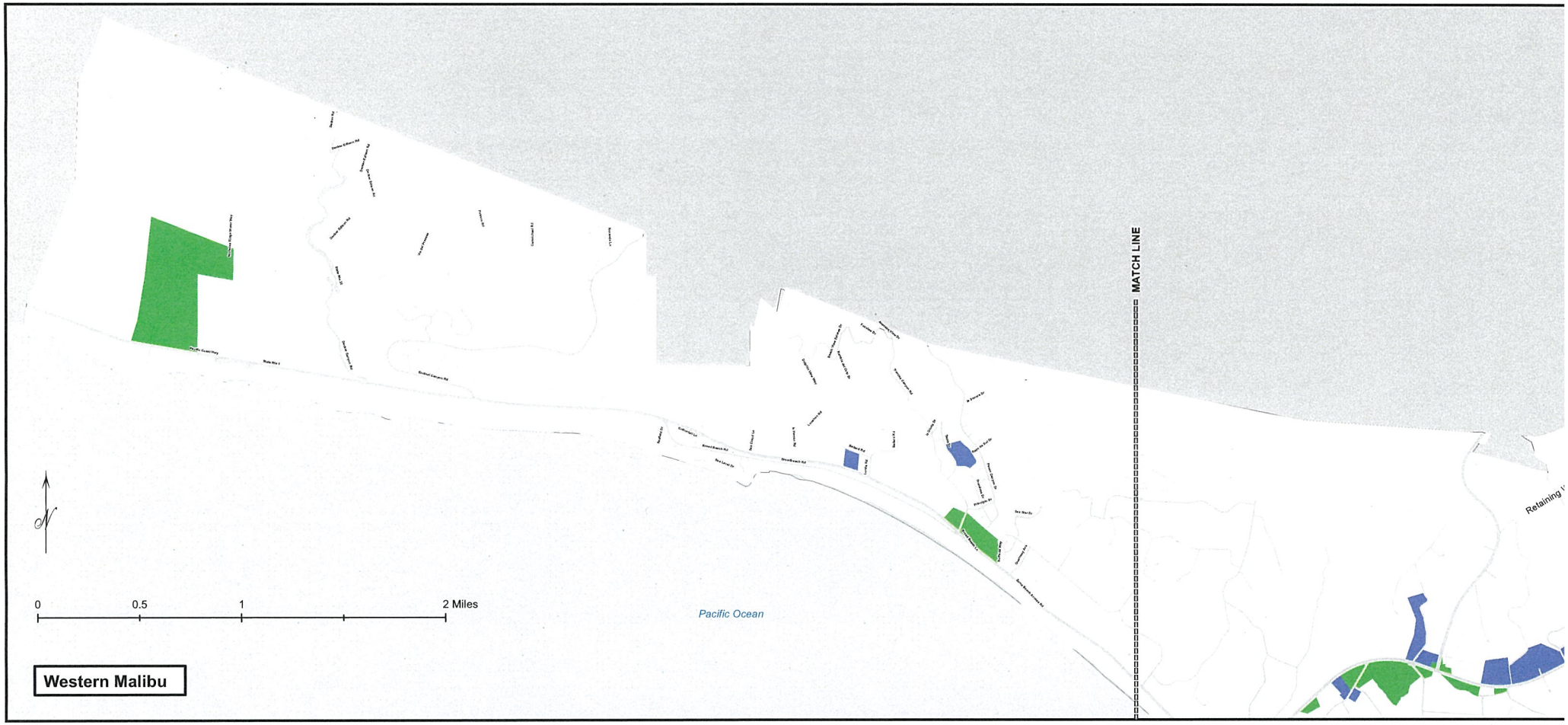
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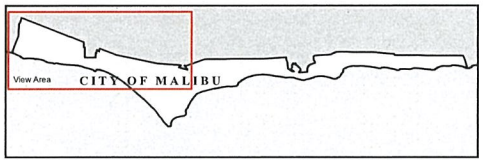
Date Prepared: 9/7/2018

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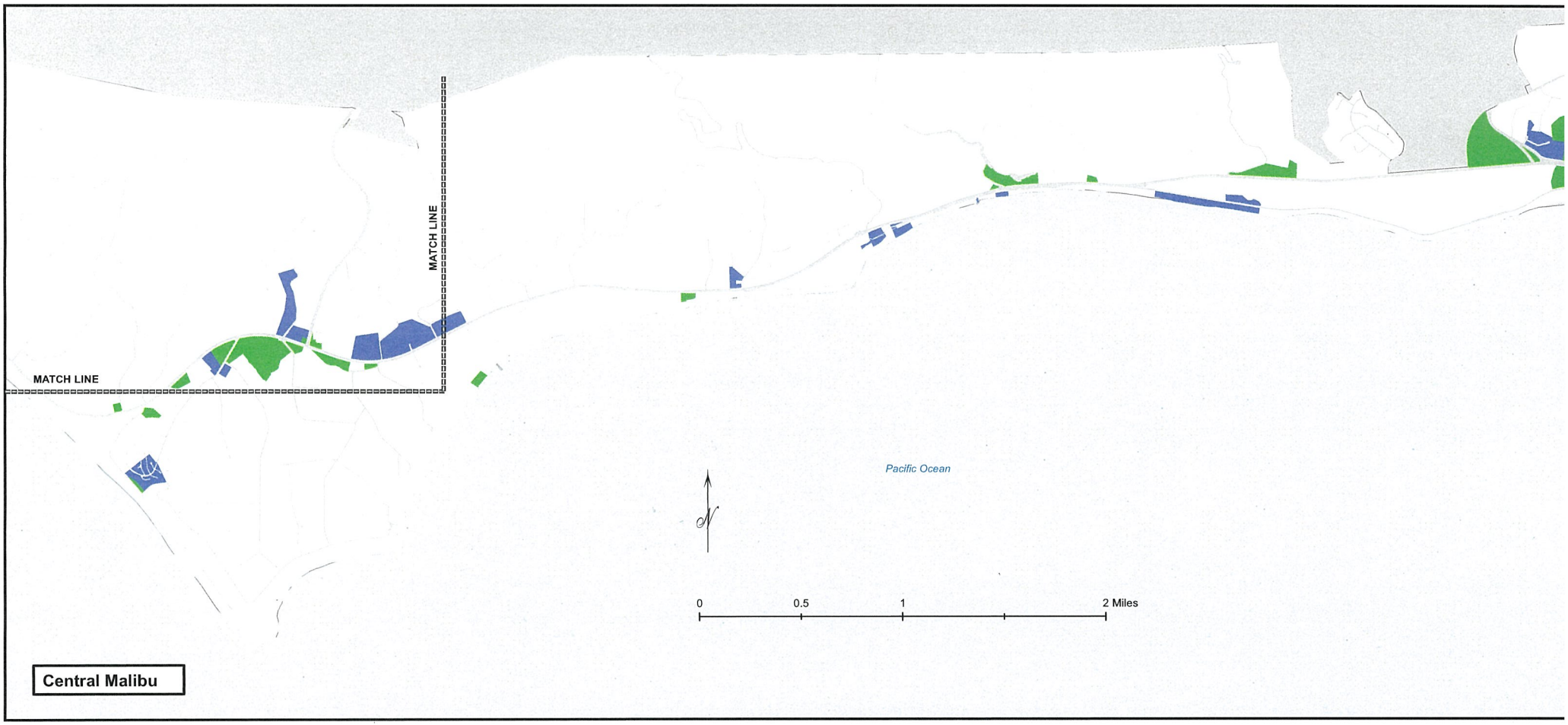
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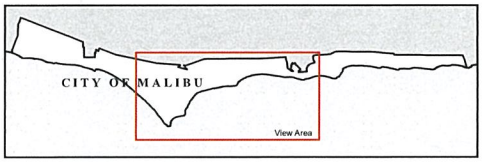
Date Prepared: 9/7/20

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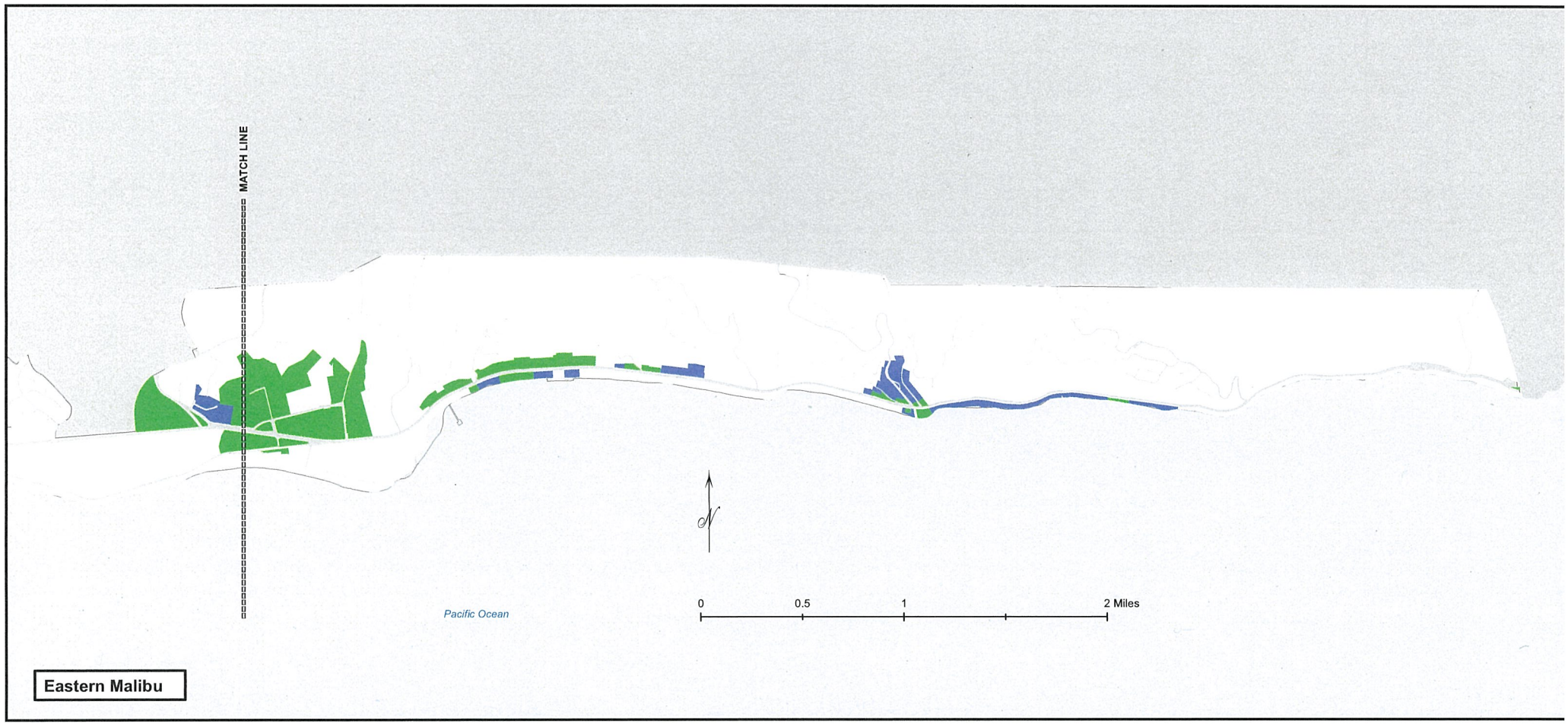
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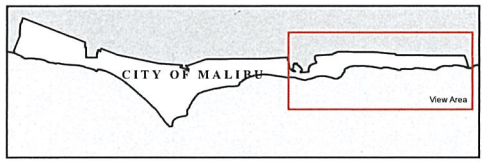
Date Prepared: 9/7/201

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Legend

- Commercial Zones (CC, CG, CN, CR, CV-1, and CV-2)
- Multifamily Residential Zones (MF and MFBF)



Date Prepared: 9/7/2018

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **WEDNESDAY, September 26, 2018, at 5:00 p.m. in the Council Chambers, Malibu City Hall**, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

PLEASE NOTE: This hearing was originally scheduled for the September 11, 2018 City Council meeting which has been cancelled.

SHORT-TERM RENTAL ORDINANCE

ZONING TEXT AMENDMENT NO. 17-002 – On July 9, 2018, the Malibu City Council considered amendments to Title 17 (Zoning Ordinance) of the Malibu Municipal Code and the Planning Commission's recommendations regarding short-term rental of property (also known as vacation rentals) in residential and multi-family zones. At the conclusion of the hearing, Council requested changes to the draft ordinance and some additional information, including but not limited to options for making primary residency a requirement; limiting the number of short-term rental permits to one per individual, property or assessor parcel number; allowing some portion of a multi-family building to be used for short-term rental; and options for requiring a wastewater system operating permit. This information and a revised draft ordinance will be presented at a new public hearing on September 26, 2018.

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Justine Kendall, Assistant Planner (310) 456-2489, extension 301 jkendall@malibucity.org

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

A written staff report will be available at or before the hearing. All persons wishing to address the Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents are available for review at City Hall during regular business hours. Written comments may be presented to the City Council at any time prior to the beginning of the public hearing.

Attachment D

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Bonnie Blue, Planning Director, at (310) 456-2489, extension 258.

_____

Bonnie Blue
Planning Director

Publish Date: August 30, 2018

Adjourned Meeting
10-28-19
~~Item~~
~~5.A.~~

Council Agenda Report

To: Mayor Farrer and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Approved by: Reva Feldman, City Manager

Date prepared: October 8, 2019 Meeting date: October 28, 2019

Subject: Short-Term Rentals

RECOMMENDED ACTION: 1) Receive financial analysis on the implications and potential impacts of a ban on short-term rentals; 2) Discuss potential options and procedures for banning short-term rentals; 3) Discuss whether an amendment to the Local Coastal Plan is necessary for a short-term rental ban; 4) Discuss approaches of other coastal cities that have legislated short-term rentals and associated litigation in those cities; and 5) Provide direction to staff on a short-term rental ordinance.

FISCAL IMPACT: In Fiscal Year 2017-2018, the City collected $2.42 million from transient occupancy tax of short-term residential rentals and in Fiscal Year 2018-2019, this revenue source generated $2.46 million. Per the Council's direction on September 26, 2018, a financial analysis has been conducted to determine the financial impacts from a ban on short-term residential rentals. The financial analysis demonstrates that a ban will have a financial impact on the City's General Fund over the next ten years with a loss of approximately $30 million.

WORK PLAN: This item was included as item 4D in the Adopted Work Plan for Fiscal Year 2019-2020.

DISCUSSION: On July 9, 2018, the Council held a public hearing on the regulation of short-term rentals. The agenda report (Attachment 1) summarized the Planning Commission's recommendation (including Planning Commission Resolution No. 18-26 as an attachment). The report also provided a draft ordinance prepared by staff based on previous direction from the Council, ZORACES and the Planning Commission proposing a short-term rental permit (STR) permit system. At the conclusion of its deliberations, the Council expressed consensus approving all but two of the 24 main points summarized in the agenda report regarding the proposed ordinance. Specifically,

ATTACHMENT 5
~~Agenda Item # 5.A.~~

the Council requested changes to the proposed parking regulations and the prohibition of short-term rentals in multifamily buildings. In addition, the Council requested that staff research and bring back options for establishing primary residence requirements, developing special exemptions from primary residence requirements, regulating rentals in condominiums, requiring Onsite Wastewater Treatment System (OWTS) operating permits for short-term rental properties, determining permit fees, processing permit applications, phasing in the permit system, and enforcement tools. The item was continued to September 26, 2018 with direction to staff to return with a revised ordinance.

On September 26, 2018, the Council was presented with a short-term rental ordinance (Attachment 2) that addressed all the concerns the Council raised and proposed to regulate short-term rentals in multifamily apartment buildings, set standards and requirements for the short-term rental of property to address the potential impacts of short-term rentals and preserve neighborhood character as directed by the Council on July 9, 2018.

The draft ordinance presented to the Council on September 26, 2018, proposed to create a STR permit system with three types of permits: primary resident, non-primary resident and multifamily with different permit requirements and permissions for each permit type that must be renewed annually. In general, the permit requirements and permissions proposed were stricter for non-primary resident permits and multifamily permits than primary residents to minimize impacts and preserve neighborhood character.

The following is a summary of the key points of the proposed ordinance and STR permit system:

- Limits individuals to one active STR permit
- Requires a 24/7 contact that can address STR issues
- Establishes maximum occupancy rates based on the number of bedrooms
- Establishes parking restrictions
- Requires a valid OWTS Permit for the property
- Establishes that permits may be denied or revoked if:
    - The property has received more than 2 citations for violation of the City's noise ordinance within a twelve-month period
    - The property has received more than 2 citations for violation of permit requirements within a twelve-month period
    - The property has outstanding code violations
    - The property doesn't comply with all applicable safety codes, laws or ordinances

- Requires that applicants provide proof to demonstrate primary residency and claim the property as a primary residence for at least 185 days per year

The ordinance also placed additional restrictions on non-primary residents and in multifamily properties including:

  - Non-primary resident permits would only allow the short-term rental of property between April 1 and September 30
  - Multifamily permits would allow a maximum of two units to be rented on a multifamily property but only if all other units are documented to be rented on a long-term basis
  - Non-primary resident permits and multifamily permits can be revoked or denied for 2 citations/violations instead of 3

Under this system, if a permit is denied or revoked, the short-term rental of property must cease immediately and shall not be permitted for 12 months. The short-term rental of property during this period would result in additional penalties.

In response to the City's proposed ordinance, the California Coastal Commission (CCC) staff wrote a letter to the City dated September 20, 2018, stating that the "Commission staff views the City's proposed amendment as a supportable effort to provide for some regulatory controls and management provisions for short term rentals" (Attachment 3).

After discussion of the proposed ordinance, the Council directed staff to bring back an item with an analysis of: 1) potential options and procedures for banning short-term rentals in the City; 2) the implications and potential impacts of a ban, including financial analysis; 3) approaches to using the Local Coastal Program Amendment (LCPA) process; and 4) the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

Background on Current STRs Regulations

Proponents of a STR ban have asserted that STRs are not a residential use and, per the City's zoning code, should not be allowed in residential neighborhoods. The issue of whether or not STRs are a permissible use in residential zones is open to interpretation. Zoning ordinances prohibit all uses that are not listed. Since short-term vacation rentals are a more recent phenomenon that have taken root because of the internet-fueled "shared economy," that specific use is not listed in most older zoning ordinances, including the City of Malibu. Thus, the issue becomes whether that use is reasonably like a single-family home (because people use it for the same general purposes as permanent or long-term renters) or whether it is a whole new use (because it is transient and not residential in character). In Malibu, single family homes can be rented whether it is for a year, a month, or a weekend. The length of the rental is not regulated. The

length of the rental of a single-family residential property does not change the essential character of the "use" as the "rental of property."

Starting in Fiscal Year 2008-2009, at the recommendation of the Administration and Finance Subcommittee, the City of Malibu began to enforce the transient occupancy tax (TOT) on the short-term rental of residential property. The City established a TOT registration fee as part of the adopted fee schedule and implemented a STR TOT registration program. Over the last decade, the City has collected TOT on STRs. In 2015, the City entered into an agreement with Airbnb and the company began collecting and remitting TOT for the properties in Malibu that are rented through its website. Ultimately, it is the responsibility of the Council to interpret zoning ordinances, and cities across California continue to interpret zoning codes differently.

The City could change its land use policy and distinguish between a "residential" use and a "transient" use based on the length of the tenancy. Transiency has a different effect on a neighborhood and, like other defined uses, may be regulated (or banned) in order to protect the characteristics of a residential neighborhood that promotes relative permanency and long-term social investment.

1. Financial Analysis

On November 8, 2019, shortly after Council provided direction on STRs, the Woolsey Fire broke out destroying more than 480 residential structures in Malibu. To better understand the short- and long-term financial implications of a potential ban on STRs, as well as the financial impacts of the Woolsey Fire, staff issued a request for proposals for financial analysis services in March 2019. On June 24, 2019, the City entered into a Professional Services Agreement with Raftelis Financial Consultants for financial analysis services.

Raftelis Financial Consultants (Raftelis) conducted a thorough analysis of the City's finances and developed a financial model. The model enables the City to create a ten-year forecast that reflects the financial impacts from a ban on short-term rentals and the financial impacts of the Woolsey Fire and associated rebuilding efforts, including unreimbursed expenses from past and potential winter rain events.

The customized financial model uses historical and current financial data to allow the City to analyze various financial scenarios. The model can be updated as needed as financial information changes and will be a valuable tool for the Council to evaluate financial and policy decisions moving forward. Raftelis input thousands of line items of revenue and expenses from the City's past and current budgets as the basis of their financial model including taking into account the City's General Fund Undesignated Reserve Policy (Attachment 4).

On October 3, 2019, the Administration and Finance (A&F) Subcommittee received a presentation from Raftelis that summarized the results of the financial modeling. The summary highlighted the financial strain the City is under after the Woolsey Fire, the subsequent storms, the waiving of fees and the addition of contract personnel to assist in the rebuilding efforts. The presentation also included the financial impact of a full ban of STRs, as well as what the financial impact would be with a 50 percent loss of STR revenue.

The analysis conducted by Raftelis highlighted the City's need to maintain a sizable General Fund undesignated reserve. The City has been committed to maintaining a substantial reserve to ensure financial sustainability and governmental continuity in a vulnerable and disaster-prone area as Malibu and has established a very conservative General Fund Undesignated Reserve Policy. The policy establishes that the City maintain a minimum General Fund Undesignated Reserve of 50 percent of the City's operating budget and, more recently, the Council set a goal of maintaining a 65 percent reserve. Both the City's reserve policy and goal far exceed the reserve levels of most municipalities.

By strictly adhering to the City's General Fund Undesignated Reserve Policy and achieving its reserve goal, the City was in a strong financial position at the beginning of Fiscal Year 2018-2019. On July 26, 2018, S&P Global Ratings assigned the City of Malibu an "AA+" rating and affirmed its "AA+" long-term rating and its "AAA" issuer credit rating (ICR) on the City. Years of conservative financial planning and Malibu's resulting fiscal strength has enabled the City to withstand the immediate financial impact of the 2018 Woolsey Fire.

However, the financial impact of the Woolsey Fire, the subsequent winter storms and the rebuilding process, including the waiving of fees for all rebuilding services and the addition of contract personnel to assist the community with rebuilding, have weakened the City's fiscal position. Looking ahead, this situation is made worse by a combination of an increase in debt service from the 2018 purchase of vacant land and the expected increase to City's contract with Los Angeles Sheriff's Department in Fiscal Year 2023. Taking into account the loss of revenue from a complete short-term rental ban or a 50 percent ban, further exacerbates the City's weakened financial position.

The A&F Subcommittee requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial ban or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

Raftelis will be at the meeting to provide the Council with a revised presentation of the financial analysis derived from the financial model they developed for the City and answer questions. A draft copy of the presentation is included as Attachment 5.

Staff evaluated the City's current expenditures and identified the following short-term and long-term measures that could serve to reduce expenditures as well as some potential revenue generating measures. A combination of these efforts could offset the loss of revenue of a potential short-term rental ban estimated to be up to $2.46 million in Fiscal Year 2020-2021 and escalated based on the Consumer Price Index. Additional measures will be needed to address anticipated increases in debt service and public safety costs.

Potential Short-Term Expenditure Reductions:

- Limit General Fund Capital Improvement Projects (CIPs)
- Reduce fire rebuild consultant expenses which will impact review and approval times for rebuilds (estimated at $3.75 million between FY 2020-2021 and FY 2022-2023)
- Limit rebuild fees waivers to Fiscal Year 2019-2020
- Reduce debt service by selling vacant land
- Limit non-essential staff positions
- Limit homelessness services
- Reduce non-essential City programs and services

Potential Long-Term Expenditure Reductions:

- Limit non-essential General Fund CIPs identified in the 5-Year CIP Plan for 2019-2024 (estimated at $2.5 million over the next 5 years)
- Reduce public safety expenses

Potential Revenue Increases (based on Fiscal Year 2019-2020 Adopted Budget and subject to fluctuation):

- Increase TOT for hotels and motels (currently 12%) - requires a vote of the people (Attachment 6)
    - 3 percent increase to 15% is estimated to generate an additional $290,000 annually
    - 4 percent increase to 16% is estimated to generate an additional $380,000 annually
- Increase Sales Tax (currently 9%) – requires a vote of the people
    - 1/2 percent increase to 9 ½% is estimated to generate approximately an additional $200,000 annually
- Install parking meters along select City streets

Upon direction from the Council on solutions to increase revenue or decrease expenses, staff can develop different financial scenarios using the model developed by Raftelis.

2. Options and Procedures for Regulating and Banning Short-Term Rentals

It is established that California cities may regulate short-term rentals (STRs) through their constitutional zoning authority.[1]

A number of cities ban or limit STR activity within residential zones. For example, San Francisco only allows "permanent residents" (persons who spend at least 275 nights a year in a residential unit) to rent the units as STRs, subject to business registration and tax requirements. The City of Santa Monica only allows STRs that take the form of "home-sharing" (hosted rentals where residents remain on-site with guests) also subject to registration and payment of TOTs.

It is important to note that for cities such as Malibu that have historically taken steps that may be considered to legitimize STRs, such as the collection of TOT, the establishment of a TOT registration program, and agreements with various online STR platforms, it may be more difficult to enact a ban.

If the City were to enact a ban, the City would need to draft an ordinance banning STRs and establish a date by which all STRs must cease (allowing a reasonable amortization period), conduct required public hearings, adopt an ordinance banning STRs, provide notice to STR operators, hire additional code enforcement personnel to help enforce the STR ban and develop a STR ban monitoring program with the City's STR monitoring consultant, Host Compliance. Due to the nature of vacation rental bookings, staff recommends that the effective date of the ordinance be a minimum of six months from the date of adoption.

In addition, in order to enact a full STR ban, the City would also need to amend its Local Coastal Program (LCP) as explained below.

3. California Coastal Commission and Local Coastal Plan Amendment Process

Depending on the ordinance proposed, the City's STR regulations may require an LCP amendment. Generally speaking, whenever the uses of property are changed, an LCP amendment would be required. CCC staff continues to assert that a LCPA is required for regulations limiting or banning STRs. In fact, in the letter to the City dated September 20, 2018, CCC staff expresses support for the City's then-proposed ordinance regulating STRs, but also asserts that "we believe that vacation rental regulations in the coastal zone must occur within the context of the City's LCP. We encourage the City to submit an LCP amendment to the Commission." CCC staff has expressed the view that prohibiting or limiting the operation of STRs in the coastal zone represents a change of use that triggers the need for an LCP amendment. In a letter dated December 6, 2016, the Commission stated that it has "not historically supported blanket vacation rental

[1] See *Ewing v. City of Carmel-By-The-Sea* (1991) 234 Cal.App.3d 1579, 1590.

bans under the Coastal Act, and it has found such programs in the past not to be consistent with the Coastal Act" (Attachment 7).

While the City Attorney advises that an LCPA is not necessary for the City to enact certain ordinances regulating the administration of the TOT required for STRs, the City Attorney also advises that an LCPA will be necessary in order for the City to enact a full ban of STRs, or certain ordinances that significantly regulate or change current STR use.

Therefore, if the Council decides to pursue a full STR ban, it would also need to direct staff to bring back a draft resolution to initiate an LCPA. After the Council adopts the initiation resolution, staff would draft an LCPA. The Draft LCPA would be presented to the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) (unless directed otherwise) and the Planning Commission before being presented to the Council for approval. These hearings would be consolidated with the hearing on the ordinance amending the Malibu Municipal Code. If approved by the Council, the Draft LCPA would be submitted to the CCC for certification.

4. Status of Current Litigation in Coastal Cities

The impact of STRs in coastal areas is still being debated, and no appellate court has yet determined whether a city's STR regulations constitutes a development within the meaning of the Coastal Act.

While the CCC has approved LCPAs that allow STRs (and has stated that bans or heavy regulation of STRs would not be approved), the threshold question of whether an LCPA is required for a coastal city to regulate STRs is the subject of pending action in California courts.

In *Greenfield v. Mandalay Shores Community Association*, the Court of Appeal invalidated a homeowners association's ban on STRs holding that "STRs may not be regulated by private actors where it affects the intensity of use or access to single family residences in a coastal zone." The court found that such regulation was a policy matter for the city and the CCC. In the pending cases, the courts address circumstances where the local government and the CCC may not agree on what the local policy should be.

The City of Del Mar is currently in litigation with the CCC over these issues. In 2017, Del Mar adopted a zoning ordinance allowing STRs in certain residential zones subject to a minimum stay of seven nights and a maximum STR use of twenty-eight days per calendar year. Like Malibu, Del Mar has a certified LCP. Del Mar submitted an LCPA to the CCC mirroring the zoning ordinance it adopted. The CCC rejected Del Mar's LCPA, suggesting that certification would depend on modification of policy to allow STRs in residential zones in the coastal zone at a much higher intensity than Del Mar

had proposed (the CCC required an STR use with a three-night minimum stay for a maximum of 100 nights per year).

Del Mar sued the CCC asserting that such policymaking was outside of its legal jurisdiction. Del Mar also claims that the CCC requirements are arbitrary, and it has offered no evidence that the Coastal Act requires more intense STR use. Del Mar argues that the Coastal Act does not equate public access with overnight accommodations, and Del Mar already offers extensive overnight accommodations throughout the city. The court has yet to hear the matter, which the City Attorney's office continues to monitor.

The City of Santa Barbara is also challenging the status of STR regulations under the Coastal Act in a case against a resident-STR operator. In *Theodore P. Kracke v. City of Santa Barbara*, a resident sued the city for implementing a policy to remove large numbers of STRs from the city's coastal areas without obtaining a Coastal Development Permit (CDP) or an LCPA.

Santa Barbara treats STRs as hotels for purposes of its zoning ordinance, which broadly defines a hotel as any building occupied as temporary accommodations for less than thirty (30) consecutive days. Prior to 2015, however, Santa Barbara had an informal policy of generally allowing STRs throughout the city provided that: (1) the owner obtained a local business license and remitted TOT payments; and (2) neighbors did not complain. In the summer of 2015, the Santa Barbara City Council directed staff to regulate STRs as defined by local law and allocated funding (approximately $180,000) to enable effective enforcement actions against unlawful operators. Unlike Del Mar, Santa Barbara did not amend its zoning ordinance; rather, it adopted policy direction to aggressively identify and prosecute operators under its existing zoning laws, regulating STRs as hotels, which are prohibited in Santa Barbara's residential zones and subject to numerous permitting requirements in commercial zones.

In litigation, Santa Barbara argued that it had not taken action that would implicate CDP or LCP requirements under the Coastal Act. The trial court disagreed. On March 8, 2019, the court issued a decision finding that: (1) an official change in enforcement policy (sanctioned by the Council) was equivalent to adopting an ordinance or a resolution for purposes of coastal "development;" and (2) even in the absence of evidence (the parties presented conflicting expert testimony), "it is clear that the availability of [STRs] affects the public's use of and access to the coastline."

Santa Barbara was thus ordered to regulate STRs as it did before the 2015 enforcement policy went into effect, until such time as Santa Barbara obtains a CDP or an LCPA. Santa Barbara has appealed the trial court's judgment, which may result in a binding appellate decision on the status of STR ordinances under the Coastal Act.

The City Attorney's office continues to monitor these issues.

Litigation and Enforcement Issues Cities Face When Regulating STRs

The challenge for most cities has been enforcement. As a result, most of the recent litigation over STR ordinances concerns the limits of local enforcement measures, particularly the limits on government regulation of the online platforms facilitating rentals.

Platform Liability

To better enforce local regulations, San Francisco and Santa Monica adopted ordinances that imposed legal liability on platforms for publishing listings of potentially illegal rentals. These ordinances held platforms criminally and civilly liable for facilitating (including advertising) any unauthorized rental activity. The platforms sued under the federal Communications Decency Act (CDA). The CDA provides that an online service provider may not be treated as "the publisher" of information furnished by a third-party content provider and immunizes platforms from liability under any inconsistent state or local law.

In response, San Francisco and Santa Monica amended their ordinances. For example, Santa Monica's amended ordinance provides that platforms may not complete "booking transactions" for unlicensed STRs, but no longer imposes liability on platforms for publishing advertisements. The platforms again sued, and on March 13, 2019, the Ninth Circuit Court of Appeal upheld Santa Monica's amended ordinance. In *HomeAway.com, Inc. v. City of Santa Monica*, the court found that Santa Monica's STR regulations did not require companies to monitor or edit the content of any listings provided by hosts and thus did not regulate "publication" activities within the meaning of the CDA.

Ordinances that require platforms to disclose transaction information about rentals for code enforcement purposes have also faced legal challenge, particularly under the Stored Communications Act (SCA). The SCA limits the government's ability to compel the disclosure of consumer information from internet service providers. Absent platforms' consent, courts have held that cities may only require companies to disclose transaction records by means of a subpoena (or similar legal process) that is narrowly designed to identify illegal activity and affords platforms a meaningful opportunity to challenge the reasonableness of the requested information.

5. Provide Direction to Staff

The following are options for the Council to consider:

- Direct staff to initiate the process to enact a full STR ban and provide direction to staff on how to address the fiscal impact of a full STR ban

- Direct staff to return the draft ordinance presented on September 26, 2018, for Council consideration

- Direct staff to draft a new STR ordinance for Council consideration and provide direction regarding regulatory items to be included

- Direct staff to return to Council with additional options for regulating STRs

ATTACHMENTS:

1. July 9, 2018 City Council Staff Report
2. September 26, 2018 City Council Staff Report
3. September 20, 2018 Letter from California Coastal Commission Staff
4. City of Malibu's General Undesignated Fund Reserve Policy
5. Draft Financial Analysis Presentation Prepared by Raftelis Financial Consultants
6. Transient Occupancy Rates in Cities Throughout California
7. December 6, 2016 Letter from California Coastal Commission

City Council Meeting
03-26-18
Item
4.A.

Council Agenda Report

To: Mayor Mullen and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: June 28, 2018 Meeting date: July 9, 2018

Subject: Short-Term Rental Ordinance

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on the first reading Ordinance No. 435 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act, amending Title 17 of the Malibu Municipal Code (MMC) and adding Chapter 17.55 (Short-term Rental Ordinance) to MMC Title 17 (Zoning) to establish provisions to regulate short-term rentals of property citywide; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 435 for the July 23, 2018 Regular City Council Meeting.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

DISCUSSION: The proposed Short-Term Rental Ordinance is intended to clarify the existing prohibition on short-term rentals in multifamily buildings, set minimum standards and requirements for the short-term rental of property and preserve neighborhood character. The ordinance was drafted based on direction provided by City Council and has been revised through the legislative process to reflect the comments received from the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES), the Planning Commission and members of the public, while keeping to the original Council direction.

This report provides a brief background on short-term rentals in Malibu, provides data on the current short-term rental market, presents the Planning Commission's recommendation from the May 7, 2018 Planning Commission Meeting, addresses the concerns raised by the Planning Commission, provides an overview of the draft ordinance, and discusses potential implementation and enforcement of the proposed ordinance.

Background

Short-term rental of residential property is currently allowed in single-family homes in the City so long as such rental complies with the MMC, the property is registered with the City, and Transient Occupancy Tax (TOT) is properly remitted.[1] This includes MMC regulations addressing parking, noise, special event gatherings (permit needed for events with 15 or more people) and nuisance issues.

Short-term rental of residential property has long been a practice in Malibu and predates the City's incorporation in 1991. For many years, rentals were handled directly by owners or with the assistance of real estate agents or brokers. With the rise of internet platforms such as Airbnb, VRBO, Homeaway and others in the last decade, the short-term rental process has become more convenient, efficient and robust and, as a result, property is rented on a short-term basis more frequently.

The MMC includes Chapter 3.24 titled "Uniform TOT Ordinance of the City of Malibu." In 2009, the City began the collection of TOT on the short-term rental of private homes in accordance with Chapter 3.24. A short-term rental is generally described in MMC Chapter 3.24 as the rental of a structure for 30 consecutive calendar days or less. This includes any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, rental unit, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof, and shall further include any trailer court, camp, park or lot where trailer spaces, or combinations of such spaces and trailers, including mobilehomes, are occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes.

In April 2015, Airbnb began collecting and remitting TOT for the properties in the City that are rented through its website, some of which are also registered directly with the City.

Current Market Landscape

There are currently a total of 408 properties that are remitting TOT for short-term rental of property. Of the 408, 220 are registered directly with the City and 188 are registered through Airbnb.

[1] MMC Chapter 3.24 requires owners and operators of short-term rental properties to register their property with the City and remit TOT on a quarterly basis. It also authorizes the City to collect TOT when a hotel, motel or residential home is occupied for 30 consecutive calendar days or less. The tax rate is 12 percent of the amount charged. Registration is a one-time $25 fee and taxes are collected on a quarterly basis. If an owner or operator fails to remit TOT as required the City may impose interest and penalties on the amount owed.

In Fiscal Year 2016-2017, the City received $1.8 million in tax revenue from short-term residential rentals. In Fiscal Year 2017-2018, the City expects to receive $1.8 million.

Given the rapid growth of online rental platforms which facilitate the short-term rental of property, it is highly likely that there are properties in Malibu that are used for short-term rental that are not registered with the City or with Airbnb.

In order to gather more accurate data and gain better oversight of short-term rentals, the City issued a Request for Proposal for short-term rental administration in winter 2017. On February 13, 2018, the City entered into a contract with Host Compliance (Host). Host has a proprietary software service that collects data weekly across the top 50 short-term rental listing sites. All the data collected on short-term rental listings, including reviews, calendar information and photos, is then aggregated, de-duplicated and documented by the Host program. Host has been collecting information on short-term rentals in Malibu for the past several months. From the information gathered thus far, Host has developed some preliminary data on the current Malibu short-term rental market which it can compare to some historical data points and provide a fuller context with which to understand current dynamics and review potential policy changes.

Many owners advertise their short-term rental units on multiple websites. Owners can change their listings at any time and, to address this, Host updates its data on a weekly basis and is regularly tracking market trends. As of June 22, 2018, Host identified 945 listings in Malibu. Of the 945 listings, Host identified 522 unique rental units.[2] This data suggests over a hundred rental units are currently not registered with the City. Monitoring by Host will facilitate identification of unregistered owners and increase compliance.

Data from Host indicates the majority of Malibu's short-term rentals are large, single family homes. Approximately 94 percent of the City's short-term rentals are for entire homes[3] and approximately 74 percent are for single family residences. Approximately 62 percent of the City's entire home short-term rental units are three bedrooms or more. In fact, approximately 20 percent are five bedrooms or more. The majority of the City's short-term rentals rent for over $400 a night. The relatively unique composition of Malibu's short-term rental housing stock has less of an impact on affordable housing than in other communities that have more diversified listings at lower average costs.

To provide a broader context for the current figures on short-term rentals, staff researched the total number of housing units in the City. Where the General Plan estimated that there were over 4,000 single-family homes in Malibu, the California

[2] Units in multifamily buildings are counted as separate and distinct units.

[3] This includes instances when homeowners rent out accessory dwelling units, duplex units, etc. (where the unit is listed as an "entire home" rental) but the homeowner is actually next door for the duration of the stay.

Department of Finance estimates that there were 6,907 total housing units in Malibu as of January 1, 2017, of which 5,373 were single-family homes (including detached and attached).

Legislative Review

On November 9, 2015, in response to complaints from residents regarding a particular single-family home being used for short-term rental, the Council directed staff to develop options for regulating short-term residential rental property owners who misuse the property or cause a nuisance in the neighborhood.

On February 8, 2016, the Council reviewed a range of enforcement mechanisms from a ban of all short-term residential rentals to limits on rentals, such as restricting the number of days per year a property can be rented, or instead, strictly enforcing noise and nuisance ordinances already on the books to deal with problem rental properties. The Council voted not to ban short-term rentals, but rather to allocate more resources to help prosecute violations of the MMC, and particularly the City's noise ordinance, special events permit requirements, and parking codes and authorized a contract for on-call monitoring services of short-term residential rentals with SWS, Inc.

On June 16, 2016, the Council received an update on issues related to short-term residential rentals. Council directed staff to bring back an item exploring ordinances regulating short-term rentals, including primary residency requirement of hosts, code violation consequences, licensing of short-term rentals, occupancy limits, fines structure and methods of enforcement.

On October 10, 2016, the Council reviewed options for regulating short-term residential rentals and directed staff to bring back a draft ordinance that included:

1. A ban on short-term rental properties with outstanding code enforcement violations, as well as the advertisement of such properties, with each violation of the ban resulting in the ban extending an additional six months from the date the enforcement violation is cured;

3. A ban on the short-term rental of multifamily housing, except for home sharing (where the owner is present on the property during the stay), which prevents this housing from being converted to hotel/motel use;

4. A limit on the number of days a property can be rented;

5. Requirement of proof of primary residence at the property, or that the host live at the property for a certain number of days a year;

6. A requirement that rentals meet certain standards, e.g. annual inspections, onsite parking for all guests, handicapped access on the property and in the home, compliance with all fire safety and occupancy codes, requiring onsite manager or that the manager is available 24-7; and

7. A requirement that CC&Rs for future developments and/or major remodels in the City to include provisions banning short-term rentals.

Staff drafted an ordinance based on the direction provided by Council and presented it to ZORACES (Attachment 3) for discussion and feedback.

On May 23, 2017, ZORACES discussed the proposed ordinance and recommended that staff draft an ordinance to include the following:

1. Prohibition of short-term rentals and home sharing in the Multi-Family Residential zone for complexes with three or more units:

2. A requirement for signage indicating 24 hours per day, seven days per week contact information for a designated manager, visible to the public at all times;

3. A requirement for compliance terms to be met or revocation of rental privileges be imposed for six months, to be increased upon lack of further compliance, which could lead to criminal penalties if compliance is ultimately not met; and

4. A requirement that homeowners attest when they register that their homes have smoke detectors with an inspection provision;

The Subcommittee also recommended that staff research:

- Covenants, conditions, and restrictions of homeowners associations that could provide examples for communities that would like to create privately enforceable restrictions;

- Whether the owner should be allowed to be the designated manager;

- Examples of types of contact information signage used in other communities;

- The cost to fund one or two full-time positions related to enforcement;

- The need for an inspection program for wastewater treatment systems; and

- Hosting guidelines that could be provided to TOT registrants, similar to the Filming Code of Conduct for film permits.

Staff revised the proposed ordinance based on the recommendations provided by ZORACES and presented it to the Planning Commission at a duly noticed public hearing. On November 20, 2017, the Planning Commission reviewed and made comments on the draft short-term rental ordinance; however, the Planning Commission did not make a motion or reach consensus at the meeting.

Staff categorized all the comments received by the Commissioners, prepared responses to address all Commissioners' comments by category and made adjustments to the proposed ordinance (Attachment 3). On May 7, 2018, the Planning Commission held a public hearing to review the revised ordinance and made two motions as follows:

- Directed staff to prepare a resolution stating that the Planning Commission recommends that the City Council find that the short-term rental of property is currently prohibited in all residential zones in the City and adopt an ordinance memorializing that prohibition; and

- Directed staff to include in the resolution a recommendation that if a ban on the short-term rental of property was not put in place, a CEQA environmental study be prepared if necessary.

Planning Resolution No. 18-26 is attached (Attachment 2).

Below, staff has categorized comments received from the Planning Commissioners and members of the public and prepared the responses below.

<u>May 7 Planning Commission Meeting Comments</u>

Commercial Use of Property in Residential Zones
Concerns were raised about whether short-term rentals constituted a commercial use in residential zones. The justification for allowing short-term rental of property in a residential zone is that like long-term rental of property, money is collected in exchange for allowing occupancy of a dwelling unit. In that way, long-term rental of property is a revenue-generating use of property just like short-term rental. Also, similar to a long-term rental, the property owner or manager may or may not be onsite or local. Both long-term and short-term rental of residential property is currently allowed in Malibu. The primary difference is the length of time the occupants stay in the dwelling unit. Under the proposed ordinance, restrictions on short-term rental units would be greater than those for dwelling units occupied on a permanent or longer term basis in order to address

concerns that have been expressed about short-term occupancy. For example, unlike units occupied by long-term tenants, for short-term rental properties:

- Contact information for the owner or owner's agent must be provided to the City and neighbors within 500 feet, and will be made available to Host so they can notify the owner of complaints
- The owner or owner's agent must be available 24 hours a day, seven days a week while the unit is in use as a short-term rental
- Parking must be onsite. For long-term occupied units, there are no restrictions on parking.
- Occupancy by more than 14 people requires a special event permit (SEP). For a long-term occupied unit, there is no limit on occupancy and a SEP is only needed for an event with 100 or more attendees.

Corporate Ownership of Residential Homes

Concerns were raised about the potential for corporations, investment groups or individuals to buy properties for the sole purpose of short-term rental. The extent to which this is currently occurring is unknown. However, based on registration data, it does not appears to be a widespread local phenomenon. As Host continues to monitor short-term rentals and refine its data, the City will have better information regarding this topic which can be reported to City Council and used to guide future policy. If corporate ownership is determined to be a problem, there are a number of policies that the City could consider adopting that could potentially inhibit the growth of short-term rental investment properties. These policy options include, but are not limited to, requiring that only individuals can register for short-term rental and putting a limit on the number of properties a single person or entity can register for short-term rental. Research shows that many of these regulatory policies are difficult to enforce and there are many ways in which corporate entities or individuals can work around these regulations. Depending on further direction from City Council, the City could evaluate these policies for implementation if needed in the future.

Definition of Multi-Family Residence

Questions were raised as to why the ordinance defines multi-family residence as a building with three of more dwelling units. This definition of multi-family residence is already established in MMC Chapter 17.02.060. The proposed ordinance is designed to clarify and be consistent with existing codes and thus relies on the existing definition of a multi-family residence. Based on this language, short-term rentals could occur at single-family and duplex properties only. The Council could choose to change this definition for purposes of the STR ordinance. For example, several owners of multi-family buildings asked that the definition be changed to increase the number of units to more than four. Other types of definitional changes suggested would allow some short-term rental within multi-family buildings. Such changes would make the proposed ordinance less restrictive

than the City's current ban on multi-family unit rentals but would put the City's affordable housing at greater risk.

Primary Residence Requirement
A primary residence requirement on short-term rentals was suggested by some in an effort to limit the number of short-term rentals in the City. This requirement was included in the original draft of the proposed ordinance that was presented to ZORACES on May 23, 2017. During the discussion at the May 23, 3017 ZORACES meeting, it was determined that this requirement was problematic due to the number of Malibu residents who own more than one home. At the recommendation of the Subcommittee, the primary residence requirement was removed from subsequent drafts of the proposed ordinance.

Permitting System
Use of a permitting system, rather than a registration program, was suggested to strengthen the City's ability to regulate short-term rentals and revoke rental privileges. The draft ordinance has been revised to incorporate a permitting system. Further discussion of the proposed permitting system will be included in the next section of the report.

Occupancy Rates
The proposed ordinance establishes a maximum number of occupants based on the number of bedrooms in a rental unit. One of the major reasons that occupancy limits are being proposed is so existing onsite septic systems designed for single family residences are not overwhelmed by the number of occupants in a short-term rental. The presence of children and babies increases demands on septic systems.

Short-Term Rental Code of Conduct
A Code of Conduct has been developed to provide short-term renters rules and regulations associated with short-term rentals (Attachment 4) including:

- *Emergency Concerns:* Short-term renters may be unaware of Malibu's fire dangers, emergency protocols and evacuation routes. Additional emergency information will be included in the Short-Term Rental Code of Conduct.
- *Septic System Concerns:* Short-term renters may be unaware of septic system requirements. Additional information on septic systems will be included in the Short-Term Rental Code of Conduct.

Noise and Neighborhood Nuisance Issues
The ordinance has been revised to include several provisions to ensure that neighbors' concerns are addressed more quickly and that violations of noise and other regulations can result in the revocation and denial of a short-term rental permit for an extended period of time.

California Environmental Quality Act

The Planning Commission expressed concern about potential impacts of short-term rentals and recommended that if a ban were not put in place,that CEQA analysis be required for the proposed ordinance to analyze these effects depending on what ordinance was put in place. At the direction of Council, any such issues could be more fully explored in studies not limited the areas of concern under CEQA, but staff's analysis of the proposed ordinance is that it is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines as it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and those that would apply to owners and long-term renters. For example, when not in use as a short-term rental, a three-bedroom house could be occupied by any number of tenants and its tenants and guests could park any number of cars on the street. It would not be limited to eight tenants, as a short-term rental would be, nor would it be constrained to parking on the property. The proposed ordinance does not expand the ability to rent property on a short term basis; it does the opposite, so any environmental impacts related to short-term rentals would be reduced by this ordinance, not increased.

Draft Ordinance

The ordinance was drafted based on direction provided by the City Council and has been revised through the legislative process to reflect the comments received from ZORACES, the Planning Commission and members of the public, while keeping to the original Council direction. Throughout the process, the intent of the ordinance remained the same: to clarify the existing prohibition on short-term rentals in multifamily buildings, set minimum standards and requirements for the short-term rental of property and preserve neighborhood character. The main points of the draft ordinance (Attachment 1) are summarized here.

1) Institutes a permit system where the owner of a short-term rental property must possess a valid Short-Term Rental Permit (STR Permit). Each permit will be assigned a unique number, and a separate permit application is required for every rental unit.

2) The STR Permit Application shall include contact information for the owner or owner's agent. The owner or owner's agent must be available to answer calls from the City and deal with any problems at the short-term rental property twenty-four hours a day, seven days a week.

3) The STR Permit Applicant shall attest that they are in compliance with all requirements of the Short-Term Rental Ordinance, MMC Chapter 3.24, including compliance with all applicable codes regarding fire, building and safety and other relevant laws, as well as the requirement that there are no outstanding code violations on the property.

4) The STR Permit is valid for one year and must be renewed annually.

5) The contact information for the owner or owner's agent shall be provided to all properties within 500 feet of the parcel boundary at the owner's expense. This is intended to provide neighbors a point of contact to informally raise or resolve concerns. This requirement was included in lieu of signage due to potential security risks associated with identifying a property as a rental.

6) The property must have onsite parking for all guests, unless the property does not have onsite parking, in which case guests are limited to parking two vehicles on the street. If street parking for more than two vehicles is necessary, a special event permit (SEP) must be obtained. This requirement is designed to limit overflow on-street parking as the SEP would count against the maximum of four events allowed each year per residential parcel.

7) Owner or owner's agents is required to grant City representatives access to the property and records if needed for inspection or audit.

8) The owner shall provide a Short-term Rental Code of Conduct prepared by the City, intended to provide important information, including rules and expectations for conduct, to all guests and post it inside the entrance to the dwelling. A draft Code of Conduct is included as Attachment 3.

9) The maximum occupancy of short-term rental units is designed to coincide with the number of bedrooms in the dwelling unit. The maximum occupancy is limited to two people more than twice the number of bedrooms of record, up to 14 people max. This is consistent with the requirement of MMC Section 5.34.020(C) to obtain a special event permit if a short-term rental is proposed to accommodate 15 people or more.

10) The STR Permit Number shall be displayed on all short-term rental advertisements. This will facilitate monitoring and enforcement of short-term rentals.

11) The STR Permit can be denied or revoked if the applicant is found to have knowingly made false statements in the application.

12) The STR Permit can also be denied or revoked if the property is found to have not paid TOT due, has outstanding code violations, does not comply with all applicable codes, is not in the condition to be rented on a short-term basis or if the property has received more than two citations for noise violations within a consecutive twelve month period.

13) The STR Permit can also be denied or revoked if a total of three citations for violation of any combination of the following requirements occur within a consecutive twelve month period: parking, responsiveness, access, posting of the Code of Conduct, maximum occupancy and listing the permit number on all advertisements.

14) Short-term rental of any vehicle, trailer, tent, storage shed, garage, or other such premises is explicitly prohibited. This provision specifically clarifies the existing ban on individuals offering Airstreams, tents and similar places as vacation rentals.

15) A ban on short-term rentals in multifamily buildings containing three or more units, except for home sharing (where the owner is present on the property during the stay).

16) If an application for a STR Permit is denied, a new application cannot be approved for that applicant and location for a twelve month period.

17) If a STR Permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve months from the date of revocation.

18) The short-term rental of property or the advertisement of property for short-term rental after denial or revocation of a STR Permit shall result in the property and the applicant being ineligible to conduct short-term rental of property for an additional six month period for each such rental.

19) It establishes an appeal process for the denial or revocation of a STR Permit and prohibits the appellant from the short-term rental of property when the appeals process is pending.

20) The appeals process includes a hearing to be scheduled before the Planning Commission. The decision of the Planning Commission shall be appealable to the City Council.

21) Violations are subject to fines of $1,000 per day or violation.

22) The STR Permit holder shall be responsible for administrative citations for violations of the municipal code committed by guests at the property.

23) Any violation of this ordinance shall be considered a separate offence for each and every day the violation occurs or persists.

Implementation and Enforcement of the Proposed Ordinance

The City has already taken significant steps to increase enforcement resources. The City now has three full-time code enforcement officers available to address short-term rental issues along with other code violations. In addition, the City has contracted with Host to assist with monitoring and enforcement of short-term rentals. The Host software will enable the City to easily and accurately identify properties that list short-term rentals and work with owners to come into compliance. The system includes a robust hotline and web portal that will enable community members to register complaints at any time and upload photos and video files, and document and track all complaints received for City staff.

If the draft ordinance is approved with the proposed twenty-four hour, seven days a week contact person, Host's hotline system can generate a call to the responsible party on file to alert them of issues at the rental property.

City staff contacted representatives from a wide range of municipalities in popular tourist destinations currently grappling with short-term rentals regarding staffing and enforcement protocols. Based on those discussions, staff believes that the City's current staffing levels with augmentation from Host are sufficient to address short-term rental compliance at this time given the current scale of short-term rentals and the ordinance provisions proposed.

Once Host's comprehensive system is fully up and running and tracking all the short-term rental data and complaints received, the City will have more information to inform staffing and enforcement needs going forward.

PUBLIC NOTICE: On June 14, 2018, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu, display ads were published in the local newspapers, and was mailed to all interested parties; and all owners/operators currently registered with the City's Transient Occupancy Tax Program (Attachment 5).

SUMMARY: Staff recommends that the City Council introduce the draft ordinance on first reading and direct staff to schedule the second reading, or provide direction on changes to the ordinance to be reviewed at a future hearing.

ATTACHMENTS:

1. Draft Ordinance
2. Planning Commission Resolution No.18-26

3. May 7, 2018 Planning Commission Staff Report – available online at www.malibucity.org/STR
4. Short-Term Rental Code of Conduct
5. June 14, 2018 Public Hearing Notice

ORDINANCE NO. 435

AN ORDINANCE OF THE CITY OF MALIBU ADDING CHAPTER 17.55 TO THE MALIBU MUNICIPAL CODE IMPLEMENTING REGULATIONS FOR THE SHORT-TERM RENTAL OF PROPERTY IN THE CITY

The City Council of the City of Malibu does hereby ordain 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, 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on 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 in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 finding that the short-term rental of property is

currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.. The Commission further recommended that if, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, that the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is 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, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, 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 Rental Permit Required.

A. Short-term rental of property (or the advertisement, offer, or facilitation, of such rental), is prohibited unless conducted in strict compliance with the requirements of this chapter by an owner who possesses a valid short-term rental permit.
B. A separate short-term rental permit is required for every rental unit.
C. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:
    1. Contact information for the owner and owner's agent operating the rented property
    2. Contact information for the owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, who is available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any guest staying at the property. The owner's agent must be available twenty-four (24) hours a day, seven (7) days a week to answer calls from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property.
    3. Attestation and agreement to comply with the requirements of this Chapter.
    4. Proof that the owner and operator of the rented property is in compliance with Chapter 3.24 of this code.
    5. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property.

D. Review and Approval. Short-term rental permits shall be subject to the approval of the City the City Manager or her/his designee.
E. Notice of Approval. The Planning Director shall provide, at the owner's expense, the contact information for the owner's agent identified in (B)(2) above to all dwelling units within five hundred (500) feet of the parcel boundary.
F. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.
G. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.
H. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:
    1. The applicant has not paid all transient occupancy tax due, or is not in compliance with Chapter 3.24 of this code.
    2. The property has any outstanding code enforcement violations.
    3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
    4. The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
    5. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter (e.g. a property with outstanding code violations may not be rented).
    6. The property has received more than two citations for violation of the City's noise ordinance within a period of twelve (12) consecutive months.
I. 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.

17.55.020 Specific Requirements for Short-term Rentals.

A. The following requirements shall be strictly adhered to by those conducting the short-term rental of property. In addition to all other penalties and remedies, a short-term rental permit application (or renewal application) may be denied or revoked where a total of three (3) citations for violation of any combination of the following requirements (and/or the requirements of 17.55.030(B)) occur within a period of twelve (12) consecutive months.
    1. All persons present at the property during a period when there is a short-term rental of a property must park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces are exempt from this requirement, but no more than two (2) vehicles may be parked on the street by persons present at the property during the short-term rental of the property.
    2. The owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, must be available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any guest staying at the property. The owner's agent must be available to answer a call to this number

from the City, an agent authorized by the City to make such calls or a guest when there is a guest renting the property.

3. Owner or owner's agent 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 her/his designee for purposes of inspection or audit.
4. Owner or owner's agent 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.
5. 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 fourteen (14) people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
6. The short-term rental permit number must be prominently posted on all advertisements for the short-term rental of the property.

B. 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. In addition to all other remedies, violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

17.55.030 Short-term Rentals in Multifamily Housing.

A. Short-term rental of property is prohibited in multifamily residential buildings containing three (3) 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, or facilitate the short-term rental of such properties.
   2. No person shall occupy a residential dwelling, a dwelling unit or a portion thereof for a period of thirty (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. Section 17.55.020(A) does not apply to the short-term rental of a dwelling unit in a multifamily residential building if the unit 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, (2) complies with the requirements of 17.55.010, and (3) if contacted by City staff, the owner appears within ninety (90) minutes in person at the property.

C. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

17.55.040 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal must shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.050 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant and location for a twelve month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of section 17.55.020, or (3) more than two (2) citations for violation of the City's noise ordinance in a period of twelve (12) consecutive months, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall result in the property and applicant being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.
D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.060 Revocation

A. A short-term rental permit may be revoked if a preponderance of the evidence demonstrates that the property or permit holder is in violation of Section 17.55.010(G) or 17.55.020.

17.55.070 Appeals

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 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. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code committed by guests at the property.

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.

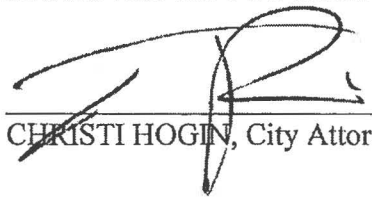
Section 3. Zoning Text Amendment No. 18-xxx.

The City Council 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 18-26

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE MEMORIALIZING THAT THE SHORT TERM RENTAL OF PROPERTY IS PROHIBITED IN ALL RESIDENTIAL ZONES OF THE CITY

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

SECTION 1. Recitals.

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

B. On May 23, 2017, the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City Council reviewed a draft ordinance (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

C. 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.

D. On November 20, 2017, the Planning Commission held a duly noticed public hearing on the draft ordinance, 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. The Commission discussed additional information they wished to receive and changes to the draft ordinance.

E. On April 12, 2018, 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.

F. On May 7, 2018, the Planning Commission held a duly noticed public hearing on the draft ordinance, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

SECTION 2. Zoning Text Amendment Recommendations

Pursuant to MMC Section 17.74.040, the Planning Commission makes the following recommendations.

A. The Planning Commission hereby finds that the short-term rental of property is currently prohibited in all residential zones in the City and recommends that the City Council adopt an ordinance memorializing this prohibition.

B. If, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, the Planning Commission recommends that the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

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

PASSED, APPROVED AND ADOPTED this 7th day of May 2018.

CHRIS MARX, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 18-26 was passed and adopted by the Planning Commission of the City of Malibu at the Special meeting held on the 7th day of May 2018 by the following vote:

AYES:	3	Commissioners:	Mazza, Uhring, Marx
NOES:	1	Commissioner:	Jennings
ABSTAIN:	0		
ABSENT:	1	Commissioner:	Pierson

KATHLEEN STECKO, Recording Secretary

CITY OF MALIBU

Welcome to the City of Malibu. It is the goal of the City that all visitors and residents are able to enjoy Malibu's natural environment while maintaining its rural residential character. Our Code of Conduct is a way to assist us toward this goal.





ATTACHMENT 4

RESOURCES

SHORT-TERM RENTAL HOTLINE

xxx-xxx-xxxx

CITY CODE ENFORCEMENT

310-456-2489, ext.484

LOS ANGELES COUNTY SHERIFF DEPARTMENT

818-878-1808

LOS ANGELES COUNTY FIRE DEPARTMENT

310-317-1802

MALIBU EMERGENCY & TRAFFIC HOTLINE

310-456-9982

CONTACT US

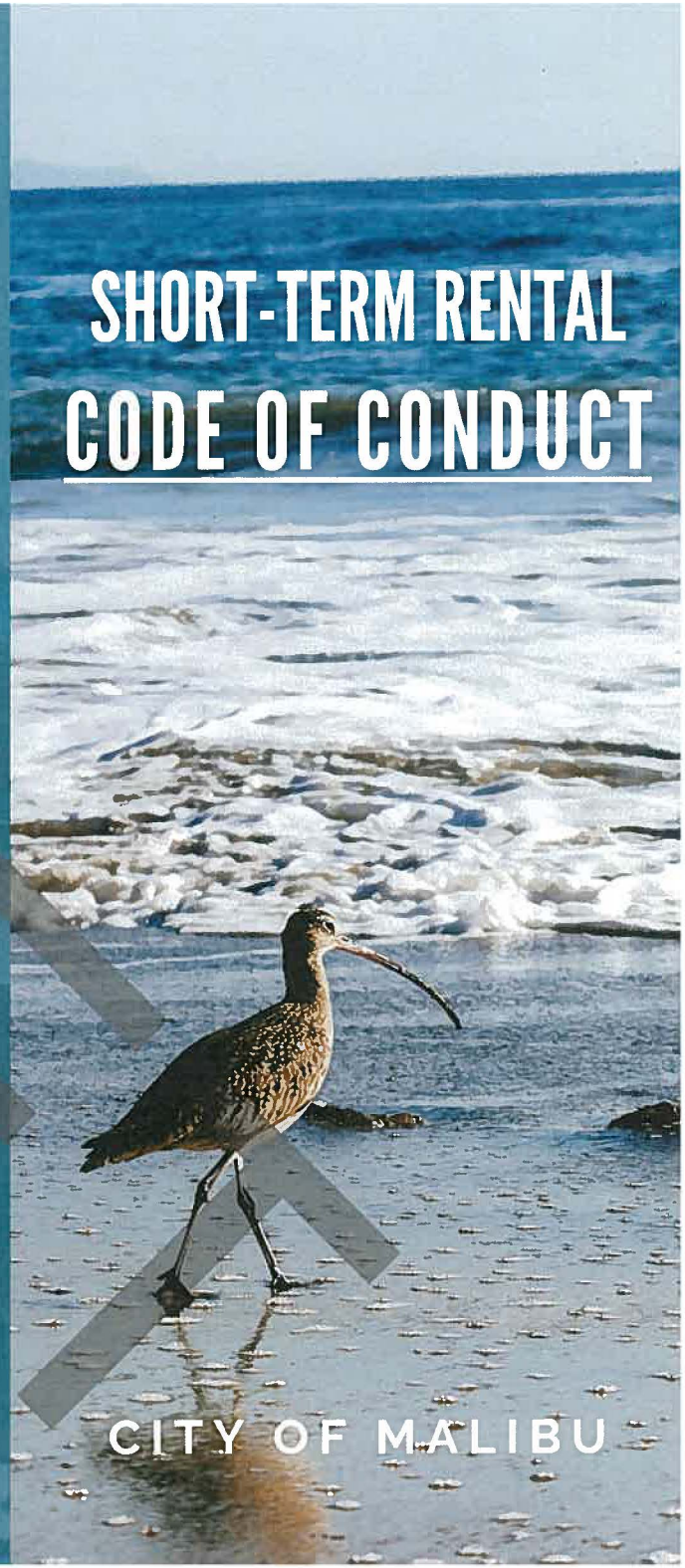
23825 Stuart Ranch Rd
Malibu, CA 90265

310-456-2489

MalibuCity.org/STR

CITY OF MALIBU

SHORT-TERM RENTAL CODE OF CONDUCT



CITY OF MALIBU

SHORT-TERM RENTAL
CODE OF CONDUCT



Please refer to Malibu Municial Code (MMC) Title 17 for more details regarding the City's Short-Term Vacation Rental Ordinance.

NEIGHBORHOOD IMPACTS

Occupancy:

The maximum occupancy of the short term rental property is limited to two people more than twice the number of bedrooms of record up to 14 people.

Noise:

Please keep all noise levels to a minimum. *(MMC Chapter 8.24)*

Trash:

Please keep trash and recycling containers out of public view until pick-up day and remove all containers from the street and sidewalk no later than 8 PM on collection day. Place containers on the street and sidewalk no sooner than 5:30PM the day before your scheduled collection. *(MMC Section 9.28)*

Parking:

All guests shall park onsite. Garages are required to be available for guest parking. If the property does not have onsite parking no more than two vehicles may be parked on the street.

Special Events:

A Special Event Permit is required in conjunction with a short-term rental if 15 or more people are anticipated to attend. *(MMC Section 5.34.020(C))*

Fines:

Any violation of Malibu Municiple Code Title 17 Chapter 55 is subject to a fine of $1,000 per day or violation.

ENVIRONMENTAL REGULATIONS

Plastic Bag Ban:

The City of Malibu has banned the distribution of plastic bags for groceries, pharmacies, restaurants, and retail stores. Please help us to ensure that plastic bags do not end up on the beaches and in the ocean. *(MMC Section 9.28)*

Polystyrene Foam Ban:

The City of Malibu has banned the sale and distribution of foam packaging, food ware, beach toys, ice chests or coolers made from polystyrene. Please refrain from using these polystyrene foam products to help preserve the natural environment. *(MMC Section 9.24)*

Plastic straws and cutlery:

The City of Malibu has banned the sale and distribution of plastic straws and cutlery for groceries, pharmacies, restaurants, and retail stores. Please help us to ensure that plastic straws and cutlery do not end up on the beaches and in the ocean. *(MMC Section 9.28)*

High Risk Fire Hazard Severity Zone:

Malibu is in a very high fire hazard severity zone. Please exercise extreme caution. Get to know your evacuation routes and be prepared to evacuate on short notice in case of wildfire.

Onsite Wastewater Treatment:

Most homes in Malibu rely on onsite wastewater treatment systems (septic systems) rather than traditional sewer systems. Please be mindful of this during your stay.

- Minimize use of garbage disposals
- Use a drain catch and put food waste in the garbage
- Never dispose of the following down the drain: kitty litter, feminine hygiene products, paper towels, diapers, cigarettes, drugs, cooking oil, and grease
- Never dispose of household chemicals into the septic system

DRAFT

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, July 9, 2018, at 6:30 p.m. in the Council Chambers, Malibu City Hall**, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

SHORT-TERM RENTAL ORDINANCE

ZONING TEXT AMENDMENT NO. 17-002 – The Malibu City Council will consider amendments to Title 17 (Zoning Ordinance) of the Malibu Municipal Code and the Planning Commission's recommendations regarding short-term rental of property (also known as vacation rentals) in residential and multi-family zones

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Bonnie Blue, Planning Director (310) 456-2489, extension 258 bblue@malibucity.org

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

A written staff report will be available at or before the hearing. All persons wishing to address the Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents are available for review at City Hall during regular business hours. Written comments may be presented to the City Council at any time prior to the beginning of the public hearing.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Bonnie Blue, Planning Director, at (310) 456-2489, extension 258.

Bonnie Blue
Planning Director

Publish Date: June 14, 2018

Adjourned Meeting
09-26-18
Item
4.B.

Council Agenda Report

To: Mayor Mullen and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: September 6, 2018 Meeting date: September 26, 2018

Subject: Short-Term Rental Ordinance (Continued from July 9, 2018)

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 436 (Attachment A) determining the project is categorically exempt from the California Environmental Quality Act, amending Title 17 of the Malibu Municipal Code (MMC) and adding Chapter 17.55 (Short-term Rental Ordinance) to MMC Title 17 (Zoning) to establish provisions to regulate short-term rental of property citywide; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 436 for the October 8, 2018 Regular City Council Meeting.

FISCAL IMPACT: In Fiscal Year 2016-2017, the City collected $1.8 million from transient occupancy tax of short-term residential rentals. In Fiscal Year 2017-2018, this revenue source generated $2.3 million (unaudited). It is likely that this tax revenue source will be negatively impacted by the proposed ordinance, but the extent of this decrease cannot be determined at this time. If additional law enforcement resources are approved, a budget amendment in the amount of $66,000 will be needed and brought back to Council as part of the mid-year budget review.

DISCUSSION: This item was continued at the July 9, 2018 Regular City Council Meeting with direction to staff to return with a revised ordinance. The proposed Short-Term Rental Ordinance clarifies the extent of the existing prohibition on short-term rentals in multifamily buildings and sets standards and requirements for the short-term rental of property to address potential impacts of short-term rentals and preserve neighborhood character.

This report provides a brief background on short-term rentals in Malibu, addresses the concerns raised by the Council at the July 9, 2018 Regular City Council Meeting, provides an overview of the updated draft ordinance, and discusses implementation and enforcement of the proposed ordinance. Specifically, this report provides information on the following items requested by the Council:

- limiting on-street parking;
- an option allowing rental of two units in multifamily buildings and information on the characteristics of the City's multifamily unit inventory;
- regulation options for condominiums and communities with Covenants, Conditions and Restrictions (CC&Rs);
- issuing permits to individuals rather than corporations;
- a primary residence requirement and potential exemptions;
- an onsite wastewater treatment system permit requirement;
- permit fees and processing, including a phasing-in period; and
- ordinance enforcement.

Background

Short-term rental of residential property is currently allowed in single-family homes in the City so long as such rental complies with the MMC, the property is registered with the City, and Transient Occupancy Tax (TOT) is properly remitted.[1] This includes MMC regulations addressing parking, noise, nuisance issues and special event gatherings. A Special Events Permit is needed for events with 15 or more people taking place in a short-term rental.

Short-term rental of residential property predates the City's incorporation in 1991. For many years, rentals were handled directly by owners or with the assistance of real estate agents or brokers. With the rise of internet platforms such as Airbnb, VRBO, Homeaway and others in the last decade, the short-term rental process has become more convenient, efficient and robust and, as a result, short-term rental activity has increased. In April 2015, Airbnb began collecting and remitting TOT for the properties in the City that are rented through its website, some of which are also registered directly with the City.

There are currently 414 properties that are remitting TOT for short-term rental. Of the 414, 226 are registered directly with the City and 188 are registered with Airbnb. In

[1] MMC Chapter 3.24 requires owners and operators of short-term rental properties to register their property with the City and remit TOT on a quarterly basis. It also authorizes the City to collect TOT when a hotel, motel or residential home is occupied for 30 consecutive calendar days or less. The tax rate is 12 percent of the amount charged. Registration is a one-time $25 fee and taxes are collected on a quarterly basis. If an owner or operator fails to remit TOT as required, the City may impose interest and penalties on the amount owed.

Fiscal Year 2016-2017, the City received $1.8 million in tax revenue from short-term residential rentals. In Fiscal Year 2017-2018, the City received $2.3 million in tax revenue from short-term residential rentals.

Given the rapid growth of online rental platforms, which facilitate the short-term rental of property, it is highly likely that there are properties in Malibu that are used for short-term rental that are not registered with the City or with Airbnb. In order to gather more accurate data and gain better oversight of short-term rentals, the City entered into a contract with Host Compliance (Host) in February 2018. Host has a proprietary software service that collects data weekly across the top 50 short-term rental listing sites. All the data collected on short-term rental listings, including reviews, calendar information and photos, is then aggregated, de-duplicated and documented by the Host program. Data from Host collected in recent months has been used to provide context, understand current dynamics and review potential policy changes.

As of August 15, 2018, Host identified 925 listings in Malibu across 50 sites. Of the 925 listings, Host identified 523 unique rental units.[2] This data suggests over a hundred rental units not registered with the City. Monitoring by Host will facilitate identification of unregistered owners and increase compliance. The California Department of Finance estimates that there were 6,907 total housing units in Malibu as of January 1, 2017, of which 5,373 were single-family homes (detached and attached).

Data from Host indicates the majority of Malibu's short-term rentals are large, single-family homes. Approximately 94 percent of the City's short-term rentals are for entire homes[3] and approximately 74 percent are for single family residences. Approximately 62 percent of the City's entire home short-term rental units are three bedrooms or more. In fact, approximately 20 percent are five bedrooms or more. The majority of the City's short-term rentals rent for over $400 a night.

July 9, 2018 Council Meeting

On July 9, 2018, the Council held a public hearing on the regulation of short-term rentals. The agenda report (Attachment B) summarized the Planning Commission's recommendation (including Planning Commission Resolution No. 18-26 as an attachment). The report also provided a draft ordinance prepared by staff based on previous direction from Council, ZORACES and the Planning Commission proposing a short-term rental permit (STR Permit) system. At the conclusion of its deliberations, Council expressed consensus approving all but two of the 24 main points summarized in the agenda report regarding the proposed ordinance. Specifically, Council requested

[2] Units in multifamily buildings are counted as separate and distinct units.
[3] This includes instances when homeowners rent out accessory dwelling units, duplex units, etc. where the unit is listed as an "entire home" rental while the homeowner is next door for the duration of the stay.

changes to the proposed parking regulations and the prohibition of short-term rentals in multifamily buildings. In addition, Council requested that staff research and bring back options for establishing primary residence requirements, developing special exemptions from primary residence requirements, regulating rentals in condominiums, requiring Onsite Wastewater Treatment System (OWTS) operating permits for short-term rental properties, determining permit fees, processing permit applications, phasing in the permit system, and enforcement tools. Additional information is provided for each of these topics below, followed by a summary of the updated draft ordinance.

Analysis of Issues Raised by Council

Parking Requirements

The previous draft ordinance required all parking to be accommodated onsite, except where a short-term rental property did not have any onsite parking. In those instances, a maximum of two vehicles could be parked on the street. The purpose of this allowance was to accommodate a small number of properties that were built without garages. Such properties are almost exclusively legal non-conforming homes on the ocean side of Pacific Coast Highway (PCH) in the east portion of Malibu where the original onsite driveway parking was absorbed by highway expansion over the years.

At the direction of Council, the updated draft ordinance requires that all guests park onsite, except properties that do not have onsite parking may park one vehicle on the street. Staff researched properties in east Malibu to identify the number of properties which lack onsite parking and found approximately 38 such parcels. Approximately 16 of these parcels are conducting short-term rentals, based on registrations, TOT payments or online listings.

Multifamily Units

MMC Section 17.02.060 defines a multifamily residence as a building with three or more dwelling units. Multifamily residences can be in the form of an apartment building or complex, in which a single property owner owns the entire property and rents out the individual units, or in the form of condominiums which are individually owned dwelling units located on a single parcel owned in common by all the unit owners. The previous draft ordinance prohibited short-term rentals in multifamily buildings, including condominiums, except for homesharing, where the owner is present in the dwelling unit at the time of the rental.

In response to public comment, Council requested additional information on the City's multifamily residential housing stock and options for regulating short-term rentals in

multifamily apartments and multifamily condominium properties, and specifically an option that allowed the short-term rental of up to two units in a multifamily building.

- *Location of Multifamily Units*

Staff researched both City zoning maps and data from the County of Los Angeles Office of the Assessor (County Assessor) to identify multifamily (apartment and condominium) development in the City. A map identifying all parcels zoned for multifamily and commercial uses is provided in Attachment C. The map shows that the multifamily zoned parcels are generally concentrated in a few areas throughout the City, primarily in eastern Malibu along PCH.

While most multifamily units are located in multifamily zoned parcels, it is important to note that there are some exceptions. The County Assessor classifies properties based on the development on the site, not the property's zoning. According to the County Assessor, approximately 21 of the City's 94 multifamily apartment parcels are located in Single-Family Residential Zones. Of the 21 multifamily apartment parcels in Single-Family Residential Zones, only three parcels consist of five or more units. There are also approximately 30 condominium complexes in the City most of which are located in multifamily residential zones.

- *Multifamily Units - Apartments*

Council received public comment from a number of multifamily apartment property owners and long-term tenants who presented arguments in favor of allowing short-term rentals in apartment buildings.

According to the County Assessor, the City has approximately 94 parcels containing roughly 473 total apartment units (note each parcel may contain more than one building). Analysis of this data shows approximately 50 percent of all apartment units are located in properties with five or more units, approximately 32 percent of units are located in quadraplexes and approximately 18 percent of units are located in triplexes.

Multifamily apartments diversify Malibu's housing stock and make up a major proportion of its affordable long-term rental housing. In an effort to balance short-term rentals and long-term rental housing stock, staff is recommending that short-term rentals be limited to two units per multifamily apartment property, regardless of the total number of units on the property. For example, if an apartment complex has three units, at most two could be used for short-term rentals, and if an apartment complex has 20 units, only two could be used for short-term rentals.

This proposed short-term rental unit cap for multifamily apartment properties will be easier to enforce than limitations based on a percentage of rental units within a building and will also ensure that more units overall are preserved for long-term rental. These regulations would strongly discourage corporations, investment groups or individuals from buying multifamily properties for the sole purpose of short-term rental or converting apartment or condo complexes into "short-term rental hotels/motels."

The ordinance also proposes to require the multifamily building owner to rent all other units in the complex on a long-term basis, unless the unit is occupied by the property owner. This requirement has many benefits. First, it will make the two-unit cap enforceable as the owner will not be able to illegally rent out additional units because they will be occupied. Second, it will provide an incentive to building owners to charge reasonable or low rent to long-term renters in order to ensure they maintain those tenants and the ability to rent units on a short-term basis.

- *Multifamily Units - Condominiums*

Condominiums are generally, but not always, located in multifamily configurations of three or more dwelling units per building. Staff estimates that there are roughly 1,118 condominium units spread out over approximately 30 different complexes throughout the City. Staff recommends treating condominiums the same as single-family residences for the purposes of short-term rental as long as the condominium's CC&Rs do not prohibit short-term rental. As part of the STR Permit application, an applicant seeking a permit for the short-term rental of a condominium unit will be required to attest that the condominium's CC&Rs do not prohibit short-term rental of units, and that he or she has notified the condominium owners' association (COA) of the STR Permit application and retained proof of the notification.

Under the proposed system, if a unit owner has obtained a STR Permit in a condominium where short-term rentals are prohibited or is not be able to provide proof of COA notification, the City could revoke the STR Permit and impose penalties.

STR Permit Holders

Staff recommends issuing one permit per individual, regardless of the number of properties the individual may own. In other words, a person and not a corporation, trust or other entity would have to apply for and obtain the permit. The permit would be associated with one specific property. This permit would allow the individual's property to be listed and used for homesharing, renting the primary dwelling unit, renting an accessory dwelling unit or renting the whole property. Any violation that occurs on the property, regardless of how it is rented (i.e., whole property or some portion), would count against the individual's STR Permit. In the case of owners of multifamily

apartment properties, the property owner (individual) would be allowed to rent a maximum of two units in the apartment complex under a multifamily STR Permit. Similar to single-family residences, any violation that occurs on the multifamily apartment property would count against the individual's STR Permit.

Primary Residency Requirements

Primary residency requirements have been used by other municipalities as a way to curb the practice of acquiring properties solely for the purpose of renting them on a short-term basis. The draft ordinance proposes to require the property to be the owner's primary residence where they live for no less than 185 days of both the previous calendar year and the calendar year during which the STR Permit is active.

STR Permit applicants can demonstrate primary residency by providing copies of three of the following documentation types: a Driver's License, State Identification Card, Motor Vehicle Registration, Property Tax Bill, Tax Documents, Utility Bills, and Bank Statements. Most ordinances do not specify the documentation type. Rather, the options are listed on the permit application form as is proposed here.

Primary Residency Requirement Exemptions

Council received public comments from a number of property owners who presented arguments against a primary residency requirement, including situations where a property is inherited by siblings who share the property and thus cannot establish primary residency at the property. Council requested that staff research options for exempting certain applicants or properties from primary residence requirements.

Staff reached out to a number of cities currently grappling with short-term rentals but was unable to identify any effective exemptions that are currently in place. Ulrik Binzer, the CEO of Host, who advises cities throughout the country on short-term rental policy, warns against establishing any exemptions because they are susceptible to abuse. Instead of developing exemptions, staff recommends creating a two-tier permit system, as discussed below.

Separate Permits for Primary Residents and Non-Primary Residents

The two-tier STR Permit system would establish one tier for documented primary resident property owners and another for non-primary resident property owners. Under this permitting system, non-primary residents would be held to a stricter standard of operation and the penalty for violations would be greater. For example, while a STR Permit issued to a primary resident can be denied or revoked if the owner receives more than **two** citations, a STR Permit issued to a non-primary resident can be denied

or revoked if the owner receives more than **one** citation. This bifurcated system is intended to correct for the fact that primary residents are likely to be more responsive to complaints and limit impacts on the neighborhood as they live there themselves.

In addition, while primary residents would be permitted to conduct short-term rentals throughout the year, non-primary residents would only be permitted to conduct short-term rentals **between April 1 and September 30 each year**. This limitation will discourage corporate owners, investment groups or individual investors from buying properties for the sole purpose of renting a property on a short-term basis because the financial return would be limited to only half of the year. At the same time, longtime property owners with divided family interests where no one claims the property as a primary residence will still be able to generate seasonal income to help maintain their ownership. A seasonal limitation is also easier to enforce than a cap on the number of days a property can be rented. Concentrating the availability of short-term rentals in the summer months also provides a source of visitor-serving accommodations during the period of greatest demand at a time when the City will have maximum code enforcement resources deployed.

Onsite Wastewater Treatment System (OWTS) Operating Permits

The City currently manages OWTS through an operating permit program. As of 2008, all commercial and multifamily residences, including condominiums, are required to have a valid OWTS Operating Permit (operating permit). Single-family residences are currently required to obtain an operating permit upon the sale of the property, major remodel or expansion or replacement of OWTS components. Operating permits must be renewed regularly. For a conventional residential OWTS, the operating permit must be renewed every five years, while the permit for an advanced OWTS must be renewed every three years.

To obtain an operating permit, a property owner must complete the Operating Permit Application, have the OWTS inspected by a City-registered inspector, and pay a fee. The inspection may result in a "pass," a "conditional pass," or a "fail." The inspection generally costs between $400 and $1,000 depending on the type of system and accessibility to the system. If the system passes inspection, the OWTS operating permit fee is currently $463. If the system receives a conditional pass, the applicant will be required to perform some remedial work on the OWTS in order to receive an operating permit, at which time the operating permit fee would be paid. The cost for these remedial repairs to residential OWTS generally varies from $1,000 to up to $20,000 in some cases.

If the system fails inspection, the applicant must enter into a compliance agreement with the City which sets forth a timeline for correction of the system deficiencies. The

compliance agreement requires that the applicant submit an application to install a new OWTS, usually within six months, install the new OWTS usually within one year after the application submittal, and adhere to specific interim measures established by the City, such as a routine inspection and pumping schedule for the duration of the compliance period. The cost to install a new system depends on several factors including but not limited to system type and size. Generally, pumping costs range from $600 to $900 per occurrence while the installation of a new OWTS can cost $60,000 or more.

Staff estimates that currently, approximately 33 to 50 percent of all Malibu households have obtained an operating permit and, of the properties currently registered for TOT, approximately 50 percent have obtained an operating permit.

Staff recommends adding short-term rental of property to the existing property milestones (e.g., point of sale or major renovation) that trigger an owner to obtain an operating permit.[4] This requirement is likely to result in a number of property owners needing to upgrade or repair their OWTS. This may cause enrollment for some property owners in the operating permit program sooner than otherwise would have been required. This is beneficial in the case of short-term rentals as it decreases the likelihood that visitors to the property who may not be familiar with septic systems would overburden a system or experience system failure. This requirement also aligns with the City's water quality protection goals by expediting system upgrades and repairs. Allowing property owners to continue to rent their properties during the compliance period would help offset costs and would be consistent with the current operating permit policy which allows owners to stay in their homes for the duration of the compliance period when the systems are being pumped.

Staff also recommends including in the Short-term Rental Code of Conduct a requirement that informational material must be presented to all renters to familiarize them with the fact that the residence is connected to an OWTS, what precautions must be utilized to protect the OWTS, and how the misuse of the OWTS may cause health risks and have significant impacts of the environment. A contact number for service for the OWTS system in the event of problems would also be included.

STR Permit Fees

The Council requested information regarding the potential fee that could be set for the new STR Permit. All permit fees must be based on an analysis of actual costs to process the permit and enforce the permit requirements. These costs include staff time and overhead to administer the program, the City's contract with Host, and the cost to

[4] This change would be accomplished by amending MMC Chapter 15.44, which was adopted by City Council (Ordinance No. 435) on August 27, 2018 and does not yet appear in the online version of the MMC.

provide additional law enforcement personnel to monitor short-term rentals. Various City personnel are needed to administer the Host contract, monitor the Host system, review permit applications, track TOT, and address code enforcement issues. Based on an analysis of all the associated costs, staff recommends charging $400 for STR Permits.

According to data compiled by Host Compliance, the majority of Malibu's short-term rentals are listed for over $400 per night. Thus, the cost of the proposed permit fee can be quickly recouped and is not likely to discourage property owners from obtaining a STR Permit. A fee that is too high is likely to lead to individuals renting their properties illegally or more often in order to recoup the money spent on the fee. To get an understanding of established STR Permit fee rates and provide a benchmark for discussion, staff researched STR Permit fees in municipalities throughout the country and found that STR Permit fees typically range from $25 to $949 annually - although fees in the upper tier often involved significantly more staff time than the proposed draft ordinance before the Council. The City's proposed STR Permit fee falls well within this range.

Processing STR Permit Applications

In its deliberations, Council discussed whether all STR Permit applications should have a single annual application and renewal date, or whether applications and renewals would be more easily handled on a rolling basis throughout the year. Staff recommends that permit applications be submitted and approved on a rolling basis. This will help minimize the additional work involved with implementing the permit system by spreading application review and processing out throughout the year. The Host system can track the annual term of an individual's permit, including any citations and tax remittance, on a rolling basis.

Phasing in the Permit System

In recognition of the fact that short-term rentals are often booked far in advance and in order to give people enough time to prepare their STR Permit Applications, staff is recommending that the ordinance go into effect six months after final adoption. This means that within six months of the final ordinance adoption date, any individual conducting short-term rental of property must obtain a STR Permit. Similarly, any individual conducting short-term rental of property who fails to obtain a STR Permit must cease the short-term rental of the property within six months. During the six-month period, the City will conduct outreach to hosts and those registered for TOT about the new ordinance and will work with Airbnb and other platforms to notify their hosts.

Draft Ordinance

Following is a summary of the changes incorporated into the draft ordinance (Attachment A) at Council's direction following the July 9, 2018 meeting.

1) All guests must park on site, unless the property does not have onsite parking, in which case guests are limited to parking one vehicle on the street. If street parking for more than one vehicle is necessary, a special event permit (SEP) must be obtained.
2) Creates 3 types of permits: primary resident, non-primary resident and multifamily.
3) A multifamily permit allows a maximum of two units to be rented on a multifamily property, but only if all other units have been rented on a long-term basis.
4) A non-primary resident permit only allows the short-term rental of property between April 1 and September 30 each year and may be revoked or denied for two citations/violations instead of 3.
5) Condominiums shall be eligible for primary resident/non-primary resident permits, but not multifamily permits, if such use is allowed by the community's CC&Rs.
6) To demonstrate primary residency an applicant must provide proof he or she lives on the property and claims it as a primary residence for at least 185 days per year.
7) All short-term rental applicants shall be required to acquire an OWTS operating permit if the property does not already have a permit or be in compliance with an approved compliance agreement.
8) Creates a violation for fee-collecting platforms that facilitate illegal short term rentals.
9) Requires attestation that the short-term rental of property is not prohibited by CC&Rs/HOA, and that the applicant provide notice to the HOA that the property will be rented on a short-term basis.
10) The STR Permit fee shall be $400.
11) STR Permit applications shall be processed on a rolling basis throughout the year.
12) The ordinance will go into effect six months after final adoption.

Implementation and Enforcement of the Proposed Ordinance

The City has already taken significant steps to increase enforcement resources but will increase enforcement and education efforts with the implementation of the new ordinance. An array of tools and resources will be used, depending on the nature of the activity. These tools and resources include:

- City Code Enforcement Staff. The current enforcement structure includes three full-time code enforcement officers available to address short-term rental issues along with other code violations. With Host's software system in place, the City's code enforcement officers can effectively monitor and enforce short-term rental rules. Host's system can accurately identify properties that list short-term rentals so that staff can work with owners to come into compliance. This work would generally occur during business hours. A specific Code Enforcement Officer will be the designated point of contact for short-term rental issues.

- Host Compliance System. The system includes an automated hotline and web portal that will enable community members to register complaints at any time, upload photos and video files, and document and track all complaints received for reporting to City staff. Each STR Permit holder will provide a twenty-four hour, seven days a week contact person that will be registered with Host's online system. When a complaint is submitted to Host either online or through its phone system, Host's hotline system will generate a call to the responsible party on file to alert them of issues at the rental property. Failure to answer the call would be a violation of the ordinance subject to penalties.

  It is expected that since such a violation would count against the limits of the property owner's STR Permit that can trigger revocation, property owners will be incentivized to answer the call and quickly address any problems at the property. The Host system gives callers the option to request a call back within 30 minutes so they can comment on whether the situation has been resolved. If the situation has not been resolved within 30 minutes, the caller may request to be connected with the local non-emergency police line and a record of the complaint will be sent to the City's Code Enforcement staff to follow up during normal business hours.

  If the complaint results in the issuance of a police or code enforcement officer citation, a violation will be recorded and would count against the limits of the property owner's STR Permit that can trigger revocation.

- Platforms may not profit from facilitating illegal short term rentals. The ordinance now creates a violation for fee-collecting platforms if they facilitate illegal short

term rentals. Such platforms will be subject to penalties if they violate the ordinance by allowing an illegal rental to be booked through their platform.

- Sheriff STR Team. After discussions with the Sheriff's Department, it was determined that short-term rental issues related to loud, unruly, late-night parties, noise violations and similar issues which are likely to occur outside of normal business hours are best handled by local law enforcement. Law enforcement personnel receive extensive training on handling potentially volatile situations, making them better suited than City Code Enforcement staff to address any such issues that may arise outside of normal business hours.

  Sheriff deputies are not only the most appropriate personnel to handle these situations but also the most cost effective. Assigning Sheriff deputies to perform late night and weekend patrol would be less expensive than hiring additional City Code Enforcement personnel to be available during weekend evenings. Staff is proposing that the City incorporate an additional patrol unit on designated, but unpublished, weekends and weekday nights to focus on short-term rentals, particularly during periods when significant short-term rental activity is anticipated.

  The STR patrol would consist of two Sheriff deputies in a dedicated patrol car with additional training and focus on short-term rental, special event permit and noise ordinances. This will ensure that law enforcement is available to respond to short-term rental complaints during the City's peak rental period. The cost to provide this additional patrol unit is estimated to be approximately $66,000 and would be funded with the proceeds from the STR Permit fees. If approved, an amendment to the Fiscal Year 2018-2019 expenditure budget will be necessary and an item will be included in the mid-year budget amendments.

City staff contacted representatives from a wide range of municipalities in popular tourist destinations currently dealing with staffing and enforcement protocols for short-term rentals. Based on those discussions, staff believes that the City's current staffing levels with augmentation from Host and the Sheriff's Department are sufficient to adequately address short-term rental compliance and enforcement needs at this time given the current scale of short-term rentals and the ordinance provisions proposed.

Once Host's comprehensive system is fully up and running and tracking all the short-term rental data and complaints received, the City will have more information which can be used to inform staffing and enforcement needs going forward.

PUBLIC NOTICE: On August 30, 2018, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was

mailed to all interested parties; and all owners/operators currently registered with the City's TOT Program (Attachment D). In addition, posts were made on the City's social media platforms and print ads were published in the local newspapers.

SUMMARY: Staff recommends that the City Council introduce the draft ordinance on first reading and direct staff to schedule the second reading or provide direction on changes to the ordinance to be reviewed at a future hearing.

ATTACHMENTS:

A. Proposed Ordinance No. 436
B. July 9, 2018 Council Report
C. Multifamily and Commercial Zoning Map
D. Notice of Public Hearing

ORDINANCE NO. 436

AN ORDINANCE OF THE CITY OF MALIBU ADDING CHAPTER 17.55 TO THE MALIBU MUNICIPAL CODE IMPLEMENTING REGULATIONS FOR THE SHORT-TERM RENTAL OF PROPERTY IN THE CITY

The City Council of the City of Malibu does hereby ordain 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, 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on 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 in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 finding that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.. The Commission further recommended that if, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, that

the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. Council directed staff to revise the ordinance and return with additional information at the September 11, 2018, Regular City Council meeting.

J. The September 11, 2018 Regular City Council Meeting was cancelled.

K. On August 30, 2018, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; homeowners associations on record with the City; regional, state and federal agencies affected by the amendment; local libraries and media; and the California Coastal Commission.

L. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is 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, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of thirty (30) consecutive days or less to a transient.

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

Section 17.55.010 Short-term Rental Permit Required.

A. Short-term rental of property , is prohibited unless conducted in strict compliance with the requirements of this chapter by an owner who possesses a valid short-term rental permit. No person or entity shall collect a fee or any compensation in connection with reservation or payment services that facilitate the short-term rental of property in the city except for properties where the owner possesses a valid short-term rental permit that would allow the short term rental that is facilitated..
B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit.
C. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:

1. Contact information for the owner of the property
2. Contact information for the owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, who is available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any person staying at the property to answer calls from the City, an agent authorized by the City to make such calls, or a person who is renting the property.
3. A copy of a valid OWTS permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.020(C) paired with an attestation that the applicant is in full compliance with the compliance agreement and not in default or breach.
4. Attestation and agreement to comply with the requirements of this Chapter.
5. Proof that the owner and operator of the rented property is in compliance with Chapter 3.24 of this code.
6. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property.
7. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that applicant has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the applicant maintains a short-term rental permit for the property.
8. The location of all rental units that will be rented on a short-term basis; no more than two rental units may be approved for short-term rental on a legal lot.
9. The type of short-term rental permit sought: primary resident, non-primary resident, or multifamily.
10. If seeking a primary resident short-term rental permit, proof of primary residency and attestation that the location is the applicant's primary residence, meaning that the applicant lives in a unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the applicant's primary residence for the duration of the permit shall suffice.
11. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants. Copies of the leases for all tenants, and proof of ownership of entire building must be provided within 10 days of a request for such information.
12. Identification of all dwelling units that will be rented on a short-term basis.

D. Review and Approval. Short-term rental permits shall be subject to the approval of the City the City Manager or her/his designee.

E. Notice of Approval. The Planning Director shall provide, at the owner's expense, the contact information for the owner's agent identified in (C)(2) above to all dwelling units within five hundred (500) feet of the parcel boundary.

F. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

G. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.

H. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:
   1. The applicant has not paid all transient occupancy tax due or is not in compliance with Chapter 3.24 of this code.
   2. The property has any outstanding code enforcement violations.
   3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
   4. The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
   5. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter including, but not limited to, situations where the OWTS requirements of Section 17.55.020(C) have not been met.
   6. The property has received more than two citations for violation of the City's noise ordinance within a period of twelve (12) consecutive months.

I. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.

J. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted

17.55.020 Specific Requirements for Short-term Rentals.

A. The following requirements shall be strictly adhered to by those conducting the short-term rental of property. In addition to all other penalties and remedies, a short-term rental permit application (or renewal application) may be denied or revoked where a holder of a Primary Resident Permit receives a total of three (3) citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months, or where a holder of a Non-Primary Resident Permit or Multifamily Permit receives a total of two (2) citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months.
   1. All persons present at the property during a period when there is a short-term rental of a property must park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces are exempt from this requirement, but no more than one (1) vehicle may be parked on the street by persons present at the property during the short-term rental of the property.
   2. The owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, must be available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any person staying at the property. The owner's agent must be available to answer a call to this number from the City, an agent authorized by the City to make such calls or a person who is renting the property.
   3. Owner or owner's agent 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 her/his designee for purposes of inspection or audit.

4. Owner or owner's agent shall provide all persons staying at the property 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.
5. 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 fourteen (14) people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
6. The short-term rental permit number must be prominently posted on all advertisements for the short-term rental of the property.

B. No person shall offer, facilitate an offer, or allow short-term rental of property in any location not specifically identified and approved on a short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage. In addition to all other remedies, violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

C. Short-term rental of property is prohibited on any property unless the owner of the property (1) has obtained a valid OWTS operating permit for the property pursuant to Chapter 15.44 or (2) has entered a compliance agreement with the City excusing such compliance, and is in compliance with the compliance agreement and not in default or breach. In addition to all other remedies, a violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

17.55.030 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Primary Resident Permit. A primary resident owner may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. To be eligible for this type of permit the primary resident owner applicant must provide proof of primary residency in a form acceptable to the City Manager and an attestation, under penalty of perjury, that the location to be permitted is the owner's primary residence. Multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that primary resident owners of condominiums may obtain this type of permit for the unit where he or she has established his or her primary residence.

B. Non-Primary Resident Permit. An owner may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the

permit is valid even if the permitted location is not the owner's primary residence. Property subject to this type of permit may only be rented on a short-term basis during the period between April 1 and September 30 each year. Multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that owners of condominiums may obtain this type of permit.

C. Multifamily Permit. Owners of entire multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two (2) units in the building so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

17.55.040 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal must shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.050 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant and location for a twelve month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.020, (3) more than two (2) citations for violation of the City's noise ordinance in a period of twelve (12) consecutive months for holders of a Primary Resident Permit, or (4) more than one (1) citation for violation of the City's noise ordinance in a period of twelve (12) consecutive months for holders of a Multifamily or Non-Primary Resident Permit, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation.
C. The short-term rental of property (or advertisement or offer of such rental) after denial or revocation of a short-term rental permit shall result in the property and applicant being

ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.

D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.060 Revocation.

A short-term rental permit may be revoked if a preponderance of the evidence demonstrates that the property or permit holder is in violation of Section 17.55.010(H) or 17.55.020.

17.55.070 Appeals.

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.
D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 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. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code committed by persons at the property during a period when the property is rented on short term rental basis.

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 3. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be prior to or concurrent with the application for a short-term rental permit. An operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 4. Zoning Text Amendment Findings.

The City Council 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

SECTION 5. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or

constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 7. Effectiveness.

This Ordinance will become effective on April 1, 2019, following its passage and adoption.

SECTION 8. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this _____ day of October 2018.

_____
RICK MULLEN, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk

Date: _____

APPROVED AS TO FORM:

_____
CHRISTI HOGIN, City Attorney

City Council Meeting
03-26-18
Item
4.A.

Council Agenda Report

To: Mayor Mullen and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: June 28, 2018 Meeting date: July 9, 2018

Subject: Short-Term Rental Ordinance

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on the first reading Ordinance No. 435 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act, amending Title 17 of the Malibu Municipal Code (MMC) and adding Chapter 17.55 (Short-term Rental Ordinance) to MMC Title 17 (Zoning) to establish provisions to regulate short-term rentals of property citywide; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 435 for the July 23, 2018 Regular City Council Meeting.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

DISCUSSION: The proposed Short-Term Rental Ordinance is intended to clarify the existing prohibition on short-term rentals in multifamily buildings, set minimum standards and requirements for the short-term rental of property and preserve neighborhood character. The ordinance was drafted based on direction provided by City Council and has been revised through the legislative process to reflect the comments received from the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES), the Planning Commission and members of the public, while keeping to the original Council direction.

This report provides a brief background on short-term rentals in Malibu, provides data on the current short-term rental market, presents the Planning Commission's recommendation from the May 7, 2018 Planning Commission Meeting, addresses the concerns raised by the Planning Commission, provides an overview of the draft ordinance, and discusses potential implementation and enforcement of the proposed ordinance.

Background

Short-term rental of residential property is currently allowed in single-family homes in the City so long as such rental complies with the MMC, the property is registered with the City, and Transient Occupancy Tax (TOT) is properly remitted.[1] This includes MMC regulations addressing parking, noise, special event gatherings (permit needed for events with 15 or more people) and nuisance issues.

Short-term rental of residential property has long been a practice in Malibu and predates the City's incorporation in 1991. For many years, rentals were handled directly by owners or with the assistance of real estate agents or brokers. With the rise of internet platforms such as Airbnb, VRBO, Homeaway and others in the last decade, the short-term rental process has become more convenient, efficient and robust and, as a result, property is rented on a short-term basis more frequently.

The MMC includes Chapter 3.24 titled "Uniform TOT Ordinance of the City of Malibu." In 2009, the City began the collection of TOT on the short-term rental of private homes in accordance with Chapter 3.24. A short-term rental is generally described in MMC Chapter 3.24 as the rental of a structure for 30 consecutive calendar days or less. This includes any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, rental unit, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof, and shall further include any trailer court, camp, park or lot where trailer spaces, or combinations of such spaces and trailers, including mobilehomes, are occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes.

In April 2015, Airbnb began collecting and remitting TOT for the properties in the City that are rented through its website, some of which are also registered directly with the City.

Current Market Landscape

There are currently a total of 408 properties that are remitting TOT for short-term rental of property. Of the 408, 220 are registered directly with the City and 188 are registered through Airbnb.

[1] MMC Chapter 3.24 requires owners and operators of short-term rental properties to register their property with the City and remit TOT on a quarterly basis. It also authorizes the City to collect TOT when a hotel, motel or residential home is occupied for 30 consecutive calendar days or less. The tax rate is 12 percent of the amount charged. Registration is a one-time $25 fee and taxes are collected on a quarterly basis. If an owner or operator fails to remit TOT as required the City may impose interest and penalties on the amount owed.

In Fiscal Year 2016-2017, the City received $1.8 million in tax revenue from short-term residential rentals. In Fiscal Year 2017-2018, the City expects to receive $1.8 million.

Given the rapid growth of online rental platforms which facilitate the short-term rental of property, it is highly likely that there are properties in Malibu that are used for short-term rental that are not registered with the City or with Airbnb.

In order to gather more accurate data and gain better oversight of short-term rentals, the City issued a Request for Proposal for short-term rental administration in winter 2017. On February 13, 2018, the City entered into a contract with Host Compliance (Host). Host has a proprietary software service that collects data weekly across the top 50 short-term rental listing sites. All the data collected on short-term rental listings, including reviews, calendar information and photos, is then aggregated, de-duplicated and documented by the Host program. Host has been collecting information on short-term rentals in Malibu for the past several months. From the information gathered thus far, Host has developed some preliminary data on the current Malibu short-term rental market which it can compare to some historical data points and provide a fuller context with which to understand current dynamics and review potential policy changes.

Many owners advertise their short-term rental units on multiple websites. Owners can change their listings at any time and, to address this, Host updates its data on a weekly basis and is regularly tracking market trends. As of June 22, 2018, Host identified 945 listings in Malibu. Of the 945 listings, Host identified 522 unique rental units.[2] This data suggests over a hundred rental units are currently not registered with the City. Monitoring by Host will facilitate identification of unregistered owners and increase compliance.

Data from Host indicates the majority of Malibu's short-term rentals are large, single family homes. Approximately 94 percent of the City's short-term rentals are for entire homes[3] and approximately 74 percent are for single family residences. Approximately 62 percent of the City's entire home short-term rental units are three bedrooms or more. In fact, approximately 20 percent are five bedrooms or more. The majority of the City's short-term rentals rent for over $400 a night. The relatively unique composition of Malibu's short-term rental housing stock has less of an impact on affordable housing than in other communities that have more diversified listings at lower average costs.

To provide a broader context for the current figures on short-term rentals, staff researched the total number of housing units in the City. Where the General Plan estimated that there were over 4,000 single-family homes in Malibu, the California

[2] Units in multifamily buildings are counted as separate and distinct units.
[3] This includes instances when homeowners rent out accessory dwelling units, duplex units, etc. (where the unit is listed as an "entire home" rental) but the homeowner is actually next door for the duration of the stay.

Department of Finance estimates that there were 6,907 total housing units in Malibu as of January 1, 2017, of which 5,373 were single-family homes (including detached and attached).

Legislative Review

On November 9, 2015, in response to complaints from residents regarding a particular single-family home being used for short-term rental, the Council directed staff to develop options for regulating short-term residential rental property owners who misuse the property or cause a nuisance in the neighborhood.

On February 8, 2016, the Council reviewed a range of enforcement mechanisms from a ban of all short-term residential rentals to limits on rentals, such as restricting the number of days per year a property can be rented, or instead, strictly enforcing noise and nuisance ordinances already on the books to deal with problem rental properties. The Council voted not to ban short-term rentals, but rather to allocate more resources to help prosecute violations of the MMC, and particularly the City's noise ordinance, special events permit requirements, and parking codes and authorized a contract for on-call monitoring services of short-term residential rentals with SWS, Inc.

On June 16, 2016, the Council received an update on issues related to short-term residential rentals. Council directed staff to bring back an item exploring ordinances regulating short-term rentals, including primary residency requirement of hosts, code violation consequences, licensing of short-term rentals, occupancy limits, fines structure and methods of enforcement.

On October 10, 2016, the Council reviewed options for regulating short-term residential rentals and directed staff to bring back a draft ordinance that included:

1. A ban on short-term rental properties with outstanding code enforcement violations, as well as the advertisement of such properties, with each violation of the ban resulting in the ban extending an additional six months from the date the enforcement violation is cured;

3. A ban on the short-term rental of multifamily housing, except for home sharing (where the owner is present on the property during the stay), which prevents this housing from being converted to hotel/motel use;

4. A limit on the number of days a property can be rented;

5. Requirement of proof of primary residence at the property, or that the host live at the property for a certain number of days a year;

6. A requirement that rentals meet certain standards, e.g. annual inspections, onsite parking for all guests, handicapped access on the property and in the home, compliance with all fire safety and occupancy codes, requiring onsite manager or that the manager is available 24-7; and

7. A requirement that CC&Rs for future developments and/or major remodels in the City to include provisions banning short-term rentals.

Staff drafted an ordinance based on the direction provided by Council and presented it to ZORACES (Attachment 3) for discussion and feedback.

On May 23, 2017, ZORACES discussed the proposed ordinance and recommended that staff draft an ordinance to include the following:

1. Prohibition of short-term rentals and home sharing in the Multi-Family Residential zone for complexes with three or more units:

2. A requirement for signage indicating 24 hours per day, seven days per week contact information for a designated manager, visible to the public at all times;

3. A requirement for compliance terms to be met or revocation of rental privileges be imposed for six months, to be increased upon lack of further compliance, which could lead to criminal penalties if compliance is ultimately not met; and

4. A requirement that homeowners attest when they register that their homes have smoke detectors with an inspection provision;

The Subcommittee also recommended that staff research:

- Covenants, conditions, and restrictions of homeowners associations that could provide examples for communities that would like to create privately enforceable restrictions;

- Whether the owner should be allowed to be the designated manager;

- Examples of types of contact information signage used in other communities;

- The cost to fund one or two full-time positions related to enforcement;

- The need for an inspection program for wastewater treatment systems; and

- Hosting guidelines that could be provided to TOT registrants, similar to the Filming Code of Conduct for film permits.

Staff revised the proposed ordinance based on the recommendations provided by ZORACES and presented it to the Planning Commission at a duly noticed public hearing. On November 20, 2017, the Planning Commission reviewed and made comments on the draft short-term rental ordinance; however, the Planning Commission did not make a motion or reach consensus at the meeting.

Staff categorized all the comments received by the Commissioners, prepared responses to address all Commissioners' comments by category and made adjustments to the proposed ordinance (Attachment 3). On May 7, 2018, the Planning Commission held a public hearing to review the revised ordinance and made two motions as follows:

- Directed staff to prepare a resolution stating that the Planning Commission recommends that the City Council find that the short-term rental of property is currently prohibited in all residential zones in the City and adopt an ordinance memorializing that prohibition; and

- Directed staff to include in the resolution a recommendation that if a ban on the short-term rental of property was not put in place, a CEQA environmental study be prepared if necessary.

Planning Resolution No. 18-26 is attached (Attachment 2).

Below, staff has categorized comments received from the Planning Commissioners and members of the public and prepared the responses below.

<u>May 7 Planning Commission Meeting Comments</u>

Commercial Use of Property in Residential Zones
Concerns were raised about whether short-term rentals constituted a commercial use in residential zones. The justification for allowing short-term rental of property in a residential zone is that like long-term rental of property, money is collected in exchange for allowing occupancy of a dwelling unit. In that way, long-term rental of property is a revenue-generating use of property just like short-term rental. Also, similar to a long-term rental, the property owner or manager may or may not be onsite or local. Both long-term and short-term rental of residential property is currently allowed in Malibu. The primary difference is the length of time the occupants stay in the dwelling unit. Under the proposed ordinance, restrictions on short-term rental units would be greater than those for dwelling units occupied on a permanent or longer term basis in order to address

concerns that have been expressed about short-term occupancy. For example, unlike units occupied by long-term tenants, for short-term rental properties:

- Contact information for the owner or owner's agent must be provided to the City and neighbors within 500 feet, and will be made available to Host so they can notify the owner of complaints
- The owner or owner's agent must be available 24 hours a day, seven days a week while the unit is in use as a short-term rental
- Parking must be onsite. For long-term occupied units, there are no restrictions on parking.
- Occupancy by more than 14 people requires a special event permit (SEP). For a long-term occupied unit, there is no limit on occupancy and a SEP is only needed for an event with 100 or more attendees.

Corporate Ownership of Residential Homes
Concerns were raised about the potential for corporations, investment groups or individuals to buy properties for the sole purpose of short-term rental. The extent to which this is currently occurring is unknown. However, based on registration data, it does not appears to be a widespread local phenomenon. As Host continues to monitor short-term rentals and refine its data, the City will have better information regarding this topic which can be reported to City Council and used to guide future policy. If corporate ownership is determined to be a problem, there are a number of policies that the City could consider adopting that could potentially inhibit the growth of short-term rental investment properties. These policy options include, but are not limited to, requiring that only individuals can register for short-term rental and putting a limit on the number of properties a single person or entity can register for short-term rental. Research shows that many of these regulatory policies are difficult to enforce and there are many ways in which corporate entities or individuals can work around these regulations. Depending on further direction from City Council, the City could evaluate these policies for implementation if needed in the future.

Definition of Multi-Family Residence
Questions were raised as to why the ordinance defines multi-family residence as a building with three of more dwelling units. This definition of multi-family residence is already established in MMC Chapter 17.02.060. The proposed ordinance is designed to clarify and be consistent with existing codes and thus relies on the existing definition of a multi-family residence. Based on this language, short-term rentals could occur at single-family and duplex properties only. The Council could choose to change this definition for purposes of the STR ordinance. For example, several owners of multi-family buildings asked that the definition be changed to increase the number of units to more than four. Other types of definitional changes suggested would allow some short-term rental within multi-family buildings. Such changes would make the proposed ordinance less restrictive

than the City's current ban on multi-family unit rentals but would put the City's affordable housing at greater risk.

Primary Residence Requirement
A primary residence requirement on short-term rentals was suggested by some in an effort to limit the number of short-term rentals in the City. This requirement was included in the original draft of the proposed ordinance that was presented to ZORACES on May 23, 2017. During the discussion at the May 23, 3017 ZORACES meeting, it was determined that this requirement was problematic due to the number of Malibu residents who own more than one home. At the recommendation of the Subcommittee, the primary residence requirement was removed from subsequent drafts of the proposed ordinance.

Permitting System
Use of a permitting system, rather than a registration program, was suggested to strengthen the City's ability to regulate short-term rentals and revoke rental privileges. The draft ordinance has been revised to incorporate a permitting system. Further discussion of the proposed permitting system will be included in the next section of the report.

Occupancy Rates
The proposed ordinance establishes a maximum number of occupants based on the number of bedrooms in a rental unit. One of the major reasons that occupancy limits are being proposed is so existing onsite septic systems designed for single family residences are not overwhelmed by the number of occupants in a short-term rental. The presence of children and babies increases demands on septic systems.

Short-Term Rental Code of Conduct
A Code of Conduct has been developed to provide short-term renters rules and regulations associated with short-term rentals (Attachment 4) including:

- *Emergency Concerns:* Short-term renters may be unaware of Malibu's fire dangers, emergency protocols and evacuation routes. Additional emergency information will be included in the Short-Term Rental Code of Conduct.
- *Septic System Concerns:* Short-term renters may be unaware of septic system requirements. Additional information on septic systems will be included in the Short-Term Rental Code of Conduct.

Noise and Neighborhood Nuisance Issues
The ordinance has been revised to include several provisions to ensure that neighbors' concerns are addressed more quickly and that violations of noise and other regulations can result in the revocation and denial of a short-term rental permit for an extended period of time.

California Environmental Quality Act
The Planning Commission expressed concern about potential impacts of short-term rentals and recommended that if a ban were not put in place,that CEQA analysis be required for the proposed ordinance to analyze these effects depending on what ordinance was put in place. At the direction of Council, any such issues could be more fully explored in studies not limited the areas of concern under CEQA, but staff's analysis of the proposed ordinance is that it is exempt from the requirements of CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines as it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and those that would apply to owners and long-term renters. For example, when not in use as a short-term rental, a three-bedroom house could be occupied by any number of tenants and its tenants and guests could park any number of cars on the street. It would not be limited to eight tenants, as a short-term rental would be, nor would it be constrained to parking on the property. The proposed ordinance does not expand the ability to rent property on a short term basis; it does the opposite, so any environmental impacts related to short-term rentals would be reduced by this ordinance, not increased.

Draft Ordinance
The ordinance was drafted based on direction provided by the City Council and has been revised through the legislative process to reflect the comments received from ZORACES, the Planning Commission and members of the public, while keeping to the original Council direction. Throughout the process, the intent of the ordinance remained the same: to clarify the existing prohibition on short-term rentals in multifamily buildings, set minimum standards and requirements for the short-term rental of property and preserve neighborhood character. The main points of the draft ordinance (Attachment 1) are summarized here.

1) Institutes a permit system where the owner of a short-term rental property must possess a valid Short-Term Rental Permit (STR Permit). Each permit will be assigned a unique number, and a separate permit application is required for every rental unit.

2) The STR Permit Application shall include contact information for the owner or owner's agent. The owner or owner's agent must be available to answer calls from the City and deal with any problems at the short-term rental property twenty-four hours a day, seven days a week.

3) The STR Permit Applicant shall attest that they are in compliance with all requirements of the Short-Term Rental Ordinance, MMC Chapter 3.24, including compliance with all applicable codes regarding fire, building and safety and other relevant laws, as well as the requirement that there are no outstanding code violations on the property.

4) The STR Permit is valid for one year and must be renewed annually.

5) The contact information for the owner or owner's agent shall be provided to all properties within 500 feet of the parcel boundary at the owner's expense. This is intended to provide neighbors a point of contact to informally raise or resolve concerns. This requirement was included in lieu of signage due to potential security risks associated with identifying a property as a rental.

6) The property must have onsite parking for all guests, unless the property does not have onsite parking, in which case guests are limited to parking two vehicles on the street. If street parking for more than two vehicles is necessary, a special event permit (SEP) must be obtained. This requirement is designed to limit overflow on-street parking as the SEP would count against the maximum of four events allowed each year per residential parcel.

7) Owner or owner's agents is required to grant City representatives access to the property and records if needed for inspection or audit.

8) The owner shall provide a Short-term Rental Code of Conduct prepared by the City, intended to provide important information, including rules and expectations for conduct, to all guests and post it inside the entrance to the dwelling. A draft Code of Conduct is included as Attachment 3.

9) The maximum occupancy of short-term rental units is designed to coincide with the number of bedrooms in the dwelling unit. The maximum occupancy is limited to two people more than twice the number of bedrooms of record, up to 14 people max. This is consistent with the requirement of MMC Section 5.34.020(C) to obtain a special event permit if a short-term rental is proposed to accommodate 15 people or more.

10) The STR Permit Number shall be displayed on all short-term rental advertisements. This will facilitate monitoring and enforcement of short-term rentals.

11) The STR Permit can be denied or revoked if the applicant is found to have knowingly made false statements in the application.

12) The STR Permit can also be denied or revoked if the property is found to have not paid TOT due, has outstanding code violations, does not comply with all applicable codes, is not in the condition to be rented on a short-term basis or if the property has received more than two citations for noise violations within a consecutive twelve month period.

13) The STR Permit can also be denied or revoked if a total of three citations for violation of any combination of the following requirements occur within a consecutive twelve month period: parking, responsiveness, access, posting of the Code of Conduct, maximum occupancy and listing the permit number on all advertisements.

14) Short-term rental of any vehicle, trailer, tent, storage shed, garage, or other such premises is explicitly prohibited. This provision specifically clarifies the existing ban on individuals offering Airstreams, tents and similar places as vacation rentals.

15) A ban on short-term rentals in multifamily buildings containing three or more units, except for home sharing (where the owner is present on the property during the stay).

16) If an application for a STR Permit is denied, a new application cannot be approved for that applicant and location for a twelve month period.

17) If a STR Permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve months from the date of revocation.

18) The short-term rental of property or the advertisement of property for short-term rental after denial or revocation of a STR Permit shall result in the property and the applicant being ineligible to conduct short-term rental of property for an additional six month period for each such rental.

19) It establishes an appeal process for the denial or revocation of a STR Permit and prohibits the appellant from the short-term rental of property when the appeals process is pending.

20) The appeals process includes a hearing to be scheduled before the Planning Commission. The decision of the Planning Commission shall be appealable to the City Council.

21) Violations are subject to fines of $1,000 per day or violation.

22) The STR Permit holder shall be responsible for administrative citations for violations of the municipal code committed by guests at the property.

23) Any violation of this ordinance shall be considered a separate offence for each and every day the violation occurs or persists.

Implementation and Enforcement of the Proposed Ordinance

The City has already taken significant steps to increase enforcement resources. The City now has three full-time code enforcement officers available to address short-term rental issues along with other code violations. In addition, the City has contracted with Host to assist with monitoring and enforcement of short-term rentals. The Host software will enable the City to easily and accurately identify properties that list short-term rentals and work with owners to come into compliance. The system includes a robust hotline and web portal that will enable community members to register complaints at any time and upload photos and video files, and document and track all complaints received for City staff.

If the draft ordinance is approved with the proposed twenty-four hour, seven days a week contact person, Host's hotline system can generate a call to the responsible party on file to alert them of issues at the rental property.

City staff contacted representatives from a wide range of municipalities in popular tourist destinations currently grappling with short-term rentals regarding staffing and enforcement protocols. Based on those discussions, staff believes that the City's current staffing levels with augmentation from Host are sufficient to address short-term rental compliance at this time given the current scale of short-term rentals and the ordinance provisions proposed.

Once Host's comprehensive system is fully up and running and tracking all the short-term rental data and complaints received, the City will have more information to inform staffing and enforcement needs going forward.

PUBLIC NOTICE: On June 14, 2018, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu, display ads were published in the local newspapers, and was mailed to all interested parties; and all owners/operators currently registered with the City's Transient Occupancy Tax Program (Attachment 5).

SUMMARY: Staff recommends that the City Council introduce the draft ordinance on first reading and direct staff to schedule the second reading, or provide direction on changes to the ordinance to be reviewed at a future hearing.

ATTACHMENTS:

1. Draft Ordinance
2. Planning Commission Resolution No.18-26

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal must shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.050 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant and location for a twelve month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of section 17.55.020, or (3) more than two (2) citations for violation of the City's noise ordinance in a period of twelve (12) consecutive months, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall result in the property and applicant being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.
D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.060 Revocation

A. A short-term rental permit may be revoked if a preponderance of the evidence demonstrates that the property or permit holder is in violation of Section 17.55.010(G) or 17.55.020.

17.55.070 Appeals

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 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. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code committed by guests at the property.

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.

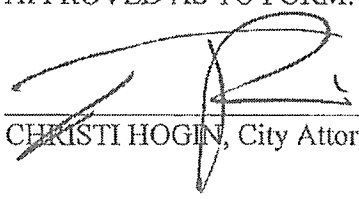
Section 3. Zoning Text Amendment No. 18-xxx.

The City Council 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 18-26

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE MEMORIALIZING THAT THE SHORT TERM RENTAL OF PROPERTY IS PROHIBITED IN ALL RESIDENTIAL ZONES OF THE CITY

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

SECTION 1. Recitals.

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

B. On May 23, 2017, the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City Council reviewed a draft ordinance (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

C. 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.

D. On November 20, 2017, the Planning Commission held a duly noticed public hearing on the draft ordinance, 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. The Commission discussed additional information they wished to receive and changes to the draft ordinance.

E. On April 12, 2018, 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.

F. On May 7, 2018, the Planning Commission held a duly noticed public hearing on the draft ordinance, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

SECTION 2. Zoning Text Amendment Recommendations

Pursuant to MMC Section 17.74.040, the Planning Commission makes the following recommendations.

A. The Planning Commission hereby finds that the short-term rental of property is currently prohibited in all residential zones in the City and recommends that the City Council adopt an ordinance memorializing this prohibition.

B. If, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, the Planning Commission recommends that the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

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

PASSED, APPROVED AND ADOPTED this 7th day of May 2018.

CHRIS MARX, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

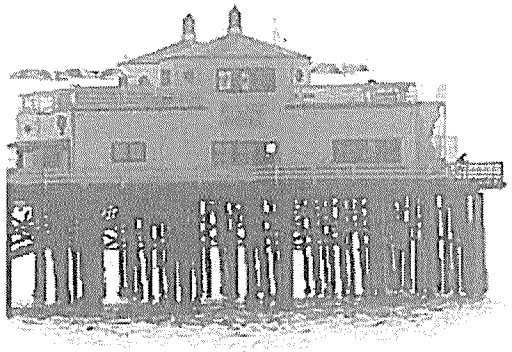
I CERTIFY THAT THE FOREGOING RESOLUTION NO. 18-26 was passed and adopted by the Planning Commission of the City of Malibu at the Special meeting held on the 7th day of May 2018 by the following vote:

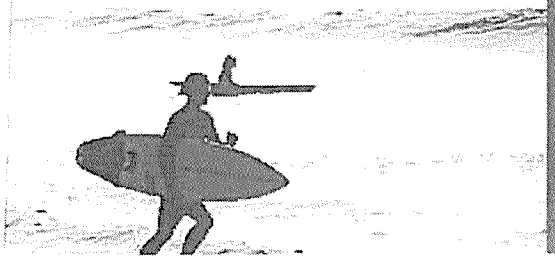
AYES:	3	Commissioners:	Mazza, Uhring, Marx
NOES:	1	Commissioner:	Jennings
ABSTAIN:	0		
ABSENT:	1	Commissioner:	Pierson

KATHLEEN STECKO, Recording Secretary

CITY OF MALIBU

Welcome to the City of Malibu. It is the goal of the City that all visitors and residents are able to enjoy Malibu's natural environment while maintaining its rural residential character. Our Code of Conduct is a way to assist us toward this goal.





ATTACHMENT 4

RESOURCES

SHORT-TERM RENTAL HOTLINE

xxx-xxx-xxxx

CITY CODE ENFORCEMENT

310-456-2489, ext.484

LOS ANGELES COUNTY SHERIFF DEPARTMENT

818-878-1808

LOS ANGELES COUNTY FIRE DEPARTMENT

310-317-1802

MALIBU EMERGENCY & TRAFFIC HOTLINE

310-456-9982

CONTACT US

23825 Stuart Ranch Rd
Malibu, CA 90265

310-456-2489

MalibuCity.org/STR

CITY OF MALIBU

SHORT-TERM RENTAL CODE OF CONDUCT



CITY OF MALIBU

NEIGHBORHOOD IMPACTS

Occupancy:

The maximum occupancy of the short term rental property is limited to two people more than twice the number of bedrooms of record up to 14 people.

Noise:

Please keep all noise levels to a minimum. *(MMC Chapter 8.24)*

Trash:

Please keep trash and recycling containers out of public view until pick-up day and remove all containers from the street and sidewalk no later than 8 PM on collection day. Place containers on the street and sidewalk no sooner than 5:30PM the day before your scheduled collection. *(MMC Section 9.28)*

Parking:

All guests shall park onsite. Garages are required to be available for guest parking. If the property does not have onsite parking no more than two vehicles may be parked on the street.

Special Events:

A Special Event Permit is required in conjunction with a short-term rental if 15 or more people are anticipated to attend. *(MMC Section 5.34.020(C))*

Fines:

Any violation of Malibu Municiple Code Title 17 Chapter 55 is subject to a fine of $1,000 per day or violation.

SHORT-TERM RENTAL CODE OF CONDUCT



Please refer to Malibu Municial Code (MMC) Title 17 for more details regarding the City's Short-Term Vacation Rental Ordinance.

ENVIRONMENTAL REGULATIONS

Plastic Bag Ban:

The City of Malibu has banned the distribution of plastic bags for groceries, pharmacies, restaurants, and retail stores. Please help us to ensure that plastic bags do not end up on the beaches and in the ocean. *(MMC Section 9.28)*

Polystyrene Foam Ban:

The City of Malibu has banned the sale and distribution of foam packaging, food ware, beach toys, ice chests or coolers made from polystyrene. Please refrain from using these polystyrene foam products to help preserve the natural environment. *(MMC Section 9.24)*

Plastic straws and cutlery:

The City of Malibu has banned the sale and distribution of plastic straws and cutlery for groceries, pharmacies, restaurants, and retail stores. Please help us to ensure that plastic straws and cutlery do not end up on the beaches and in the ocean. *(MMC Section 9.28)*

High Risk Fire Hazard Severity Zone:

Malibu is in a very high fire hazard severity zone. Please exercise extreme caution. Get to know your evacuation routes and be prepared to evacuate on short notice in case of wildfire.

Onsite Wastewater Treatment:

Most homes in Malibu rely on onsite wastewater treatment systems (septic systems) rather than traditional sewer systems. Please be mindful of this during your stay.

- Minimize use of garbage disposals
- Use a drain catch and put food waste in the garbage
- Never dispose of the following down the drain: kitty litter, feminine hygiene products, paper towels, diapers, cigarettes, drugs, cooking oil, and grease
- Never dispose of household chemicals into the septic system

DRAFT

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, July 9, 2018, at 6:30 p.m. in the Council Chambers, Malibu City Hall**, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

SHORT-TERM RENTAL ORDINANCE

ZONING TEXT AMENDMENT NO. 17-002 – The Malibu City Council will consider amendments to Title 17 (Zoning Ordinance) of the Malibu Municipal Code and the Planning Commission's recommendations regarding short-term rental of property (also known as vacation rentals) in residential and multi-family zones

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Bonnie Blue, Planning Director (310) 456-2489, extension 258 bblue@malibucity.org

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

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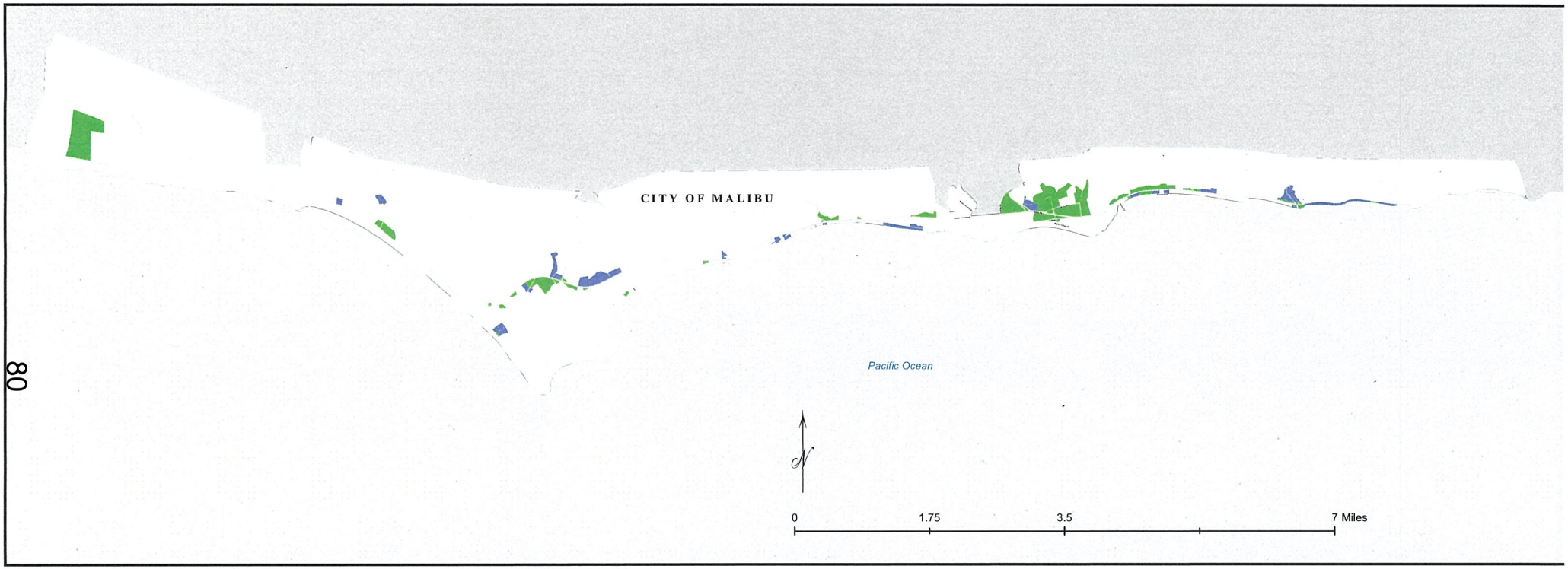
If there are any questions regarding this notice, please contact Bonnie Blue, Planning Director, at (310) 456-2489, extension 258.

Bonnie Blue
Planning Director

Publish Date: June 14, 2018

ATTACHMENT 5

Map of Parcels Zoned Multifamily or Commercial



80

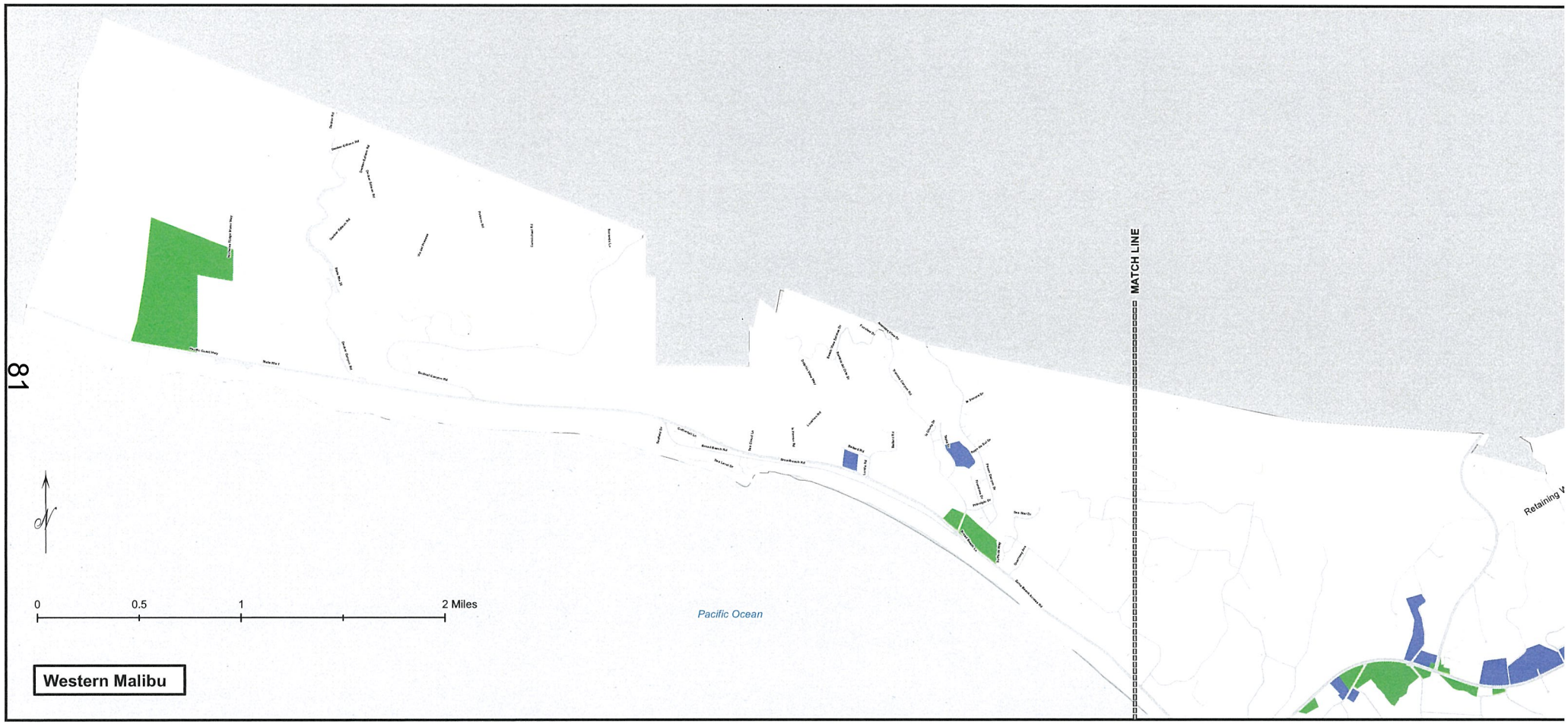
Legend

- Commercial Zones (CC, CG, CN, CR, CV-1, and CV-2)
- Multifamily Residential Zones (MF and MFBF)

Attachment C

Date Prepared: 9/7/2018

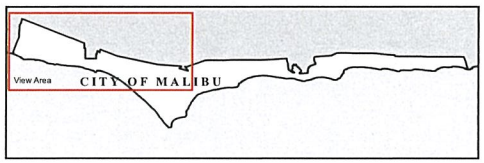
Map of Parcels Zoned Multifamily or Commercial



81

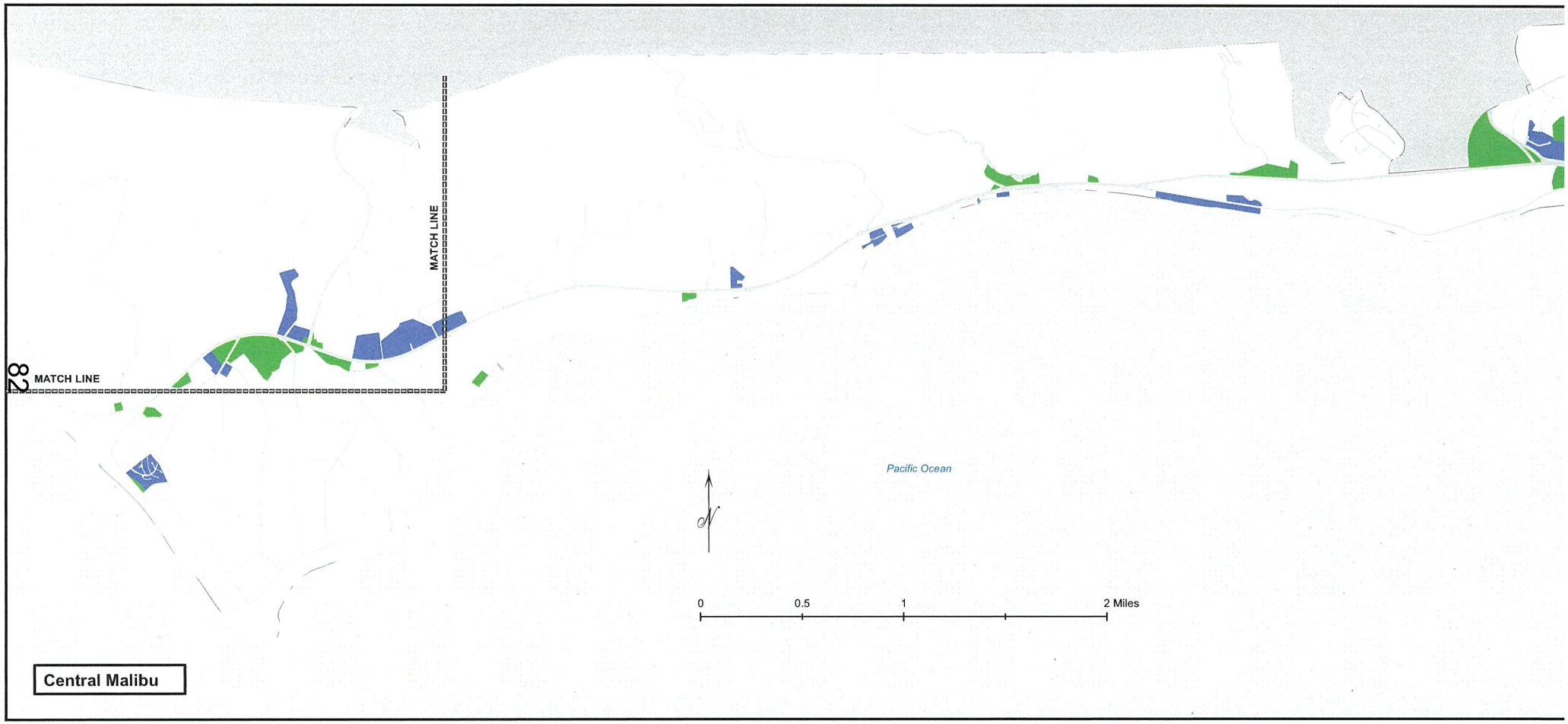
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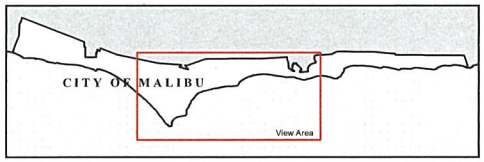
Date Prepared: 9/7/201

Map of Parcels Zoned Multifamily or Commercial



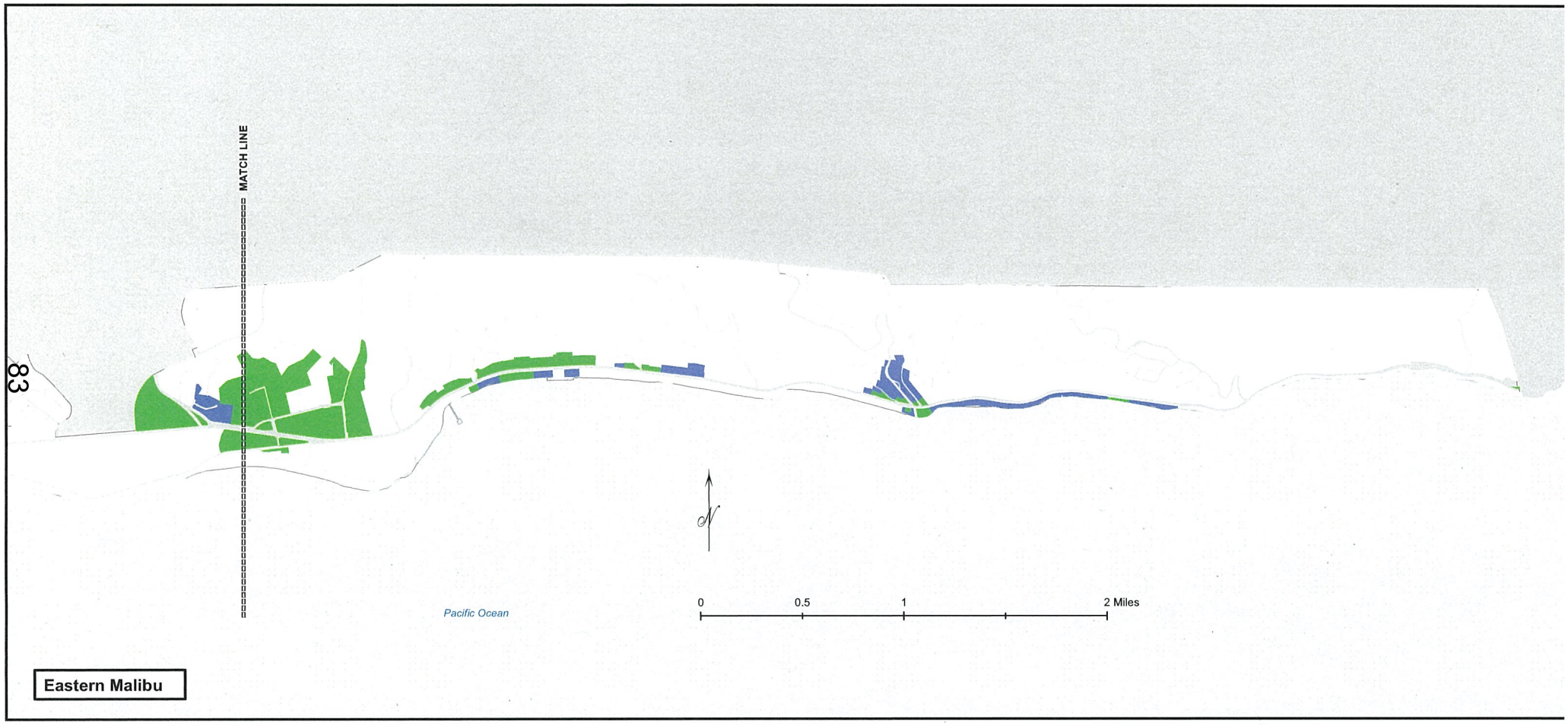
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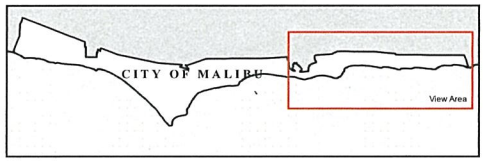
Date Prepared: 9/7/20

Map of Parcels Zoned Multifamily or Commercial



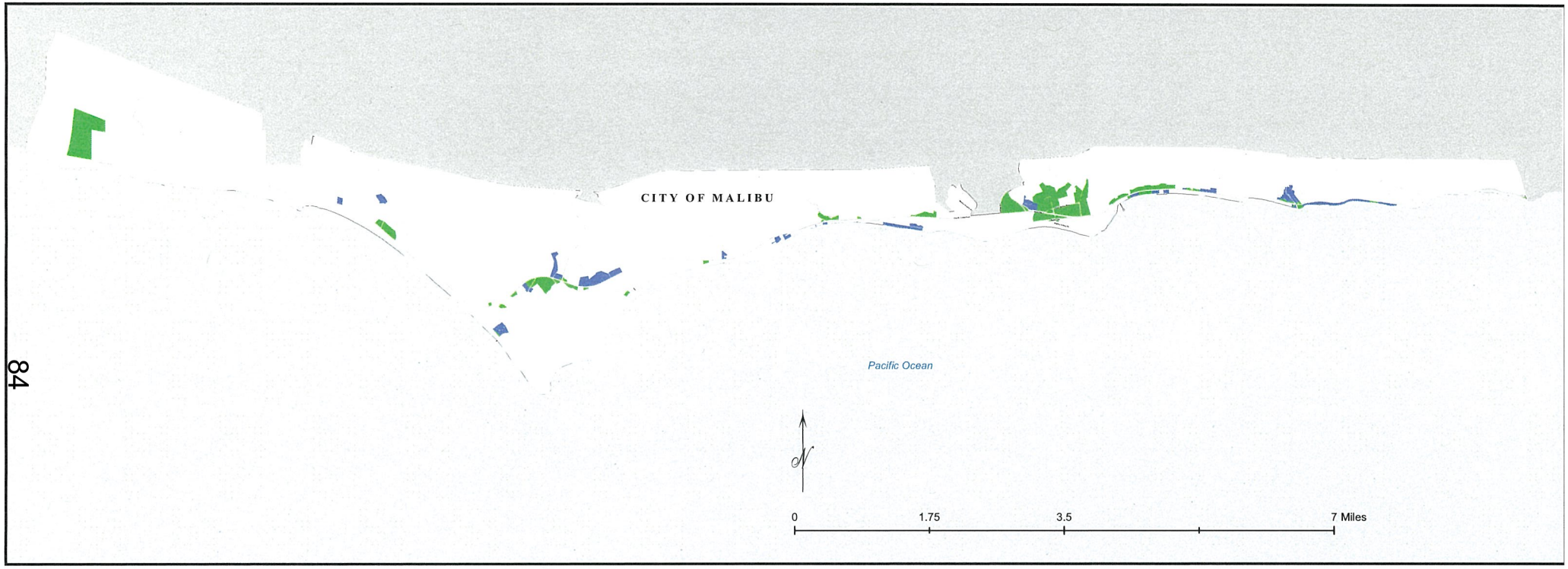
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Date Prepared: 9/7/2018

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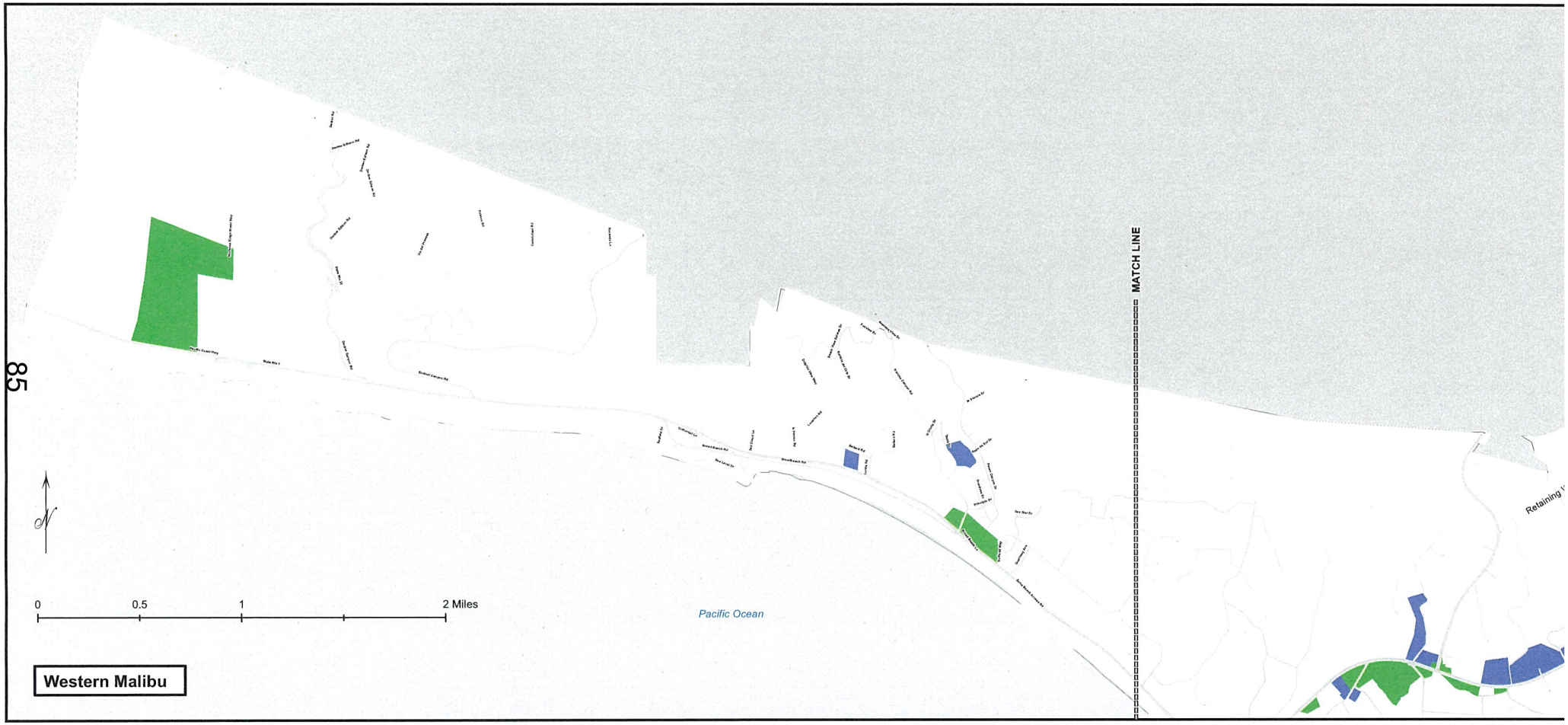
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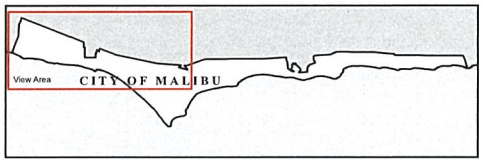
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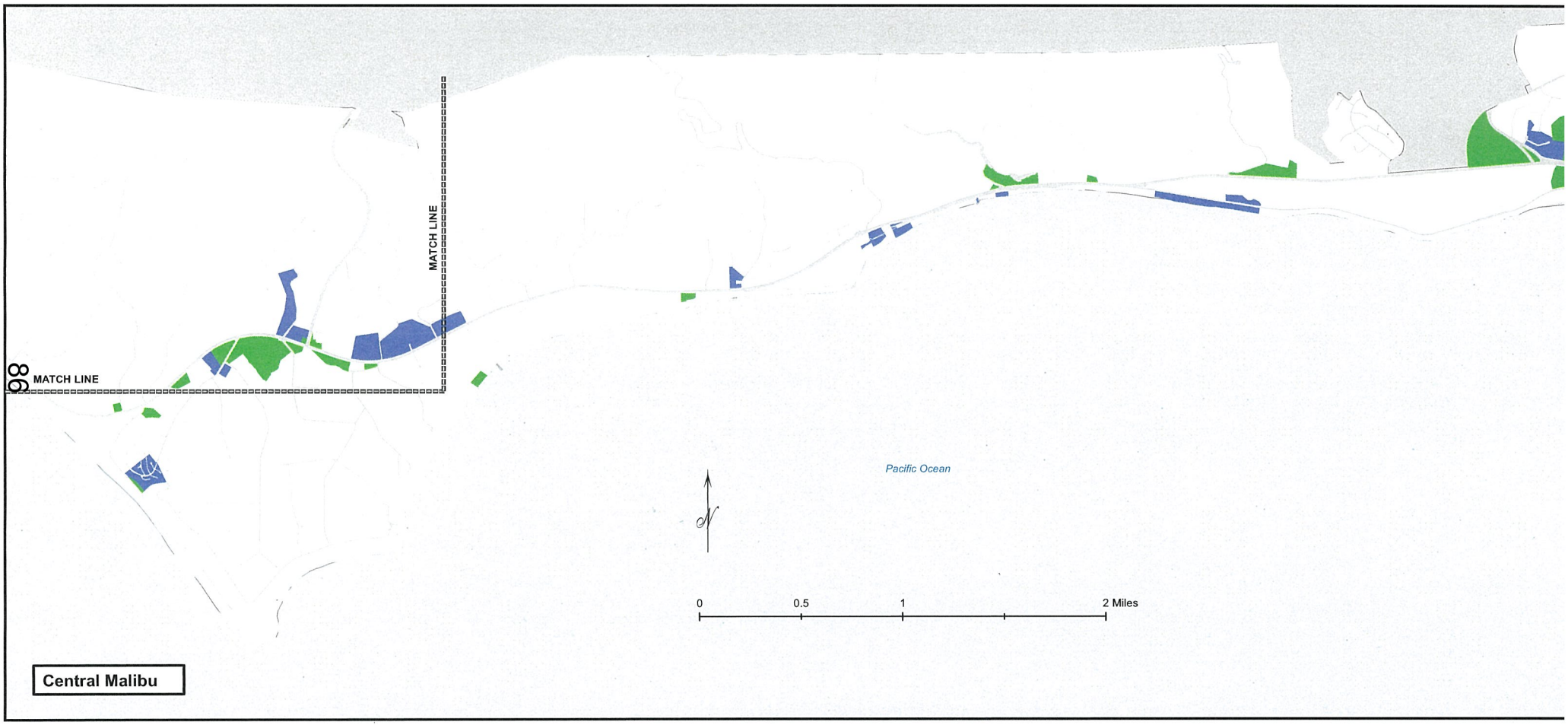
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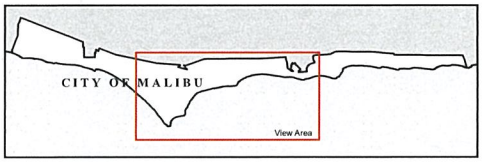
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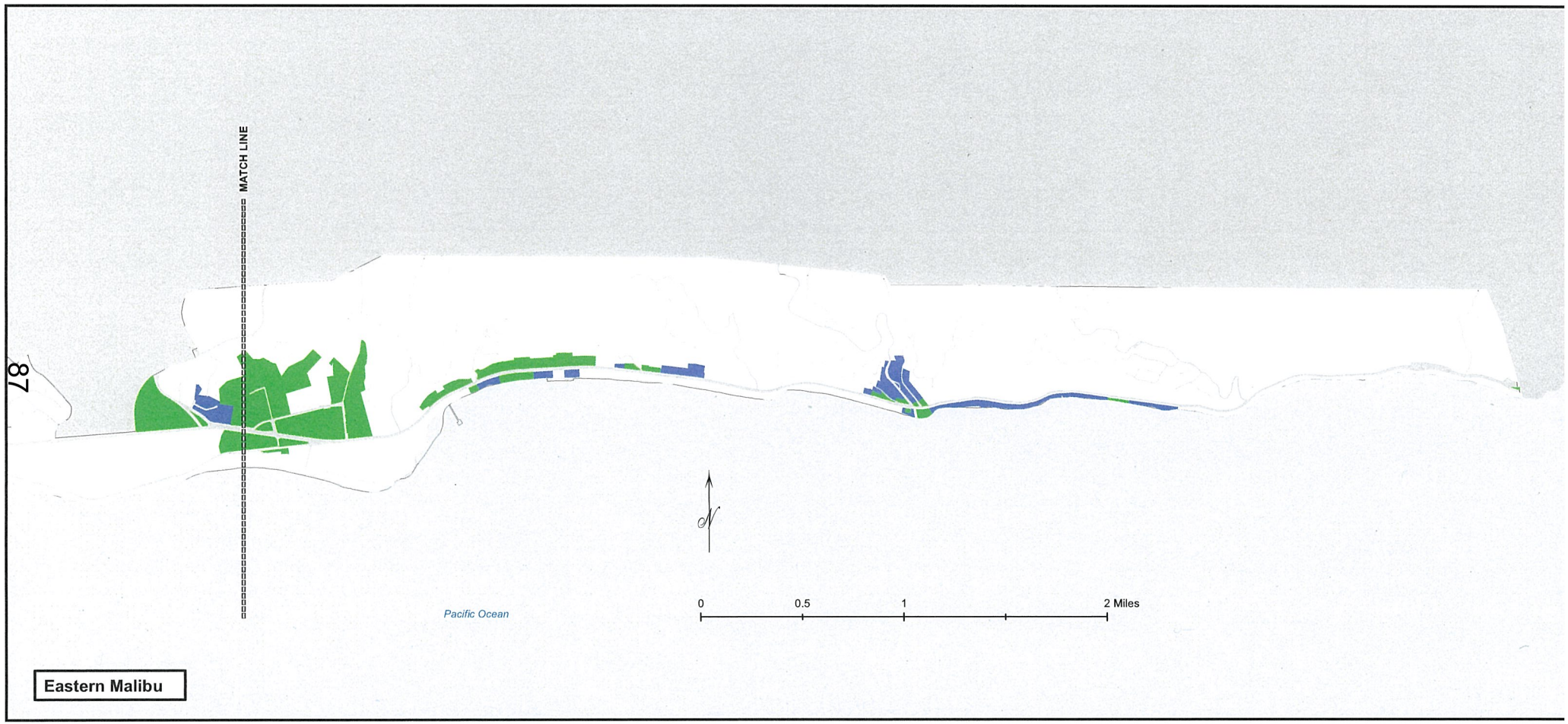
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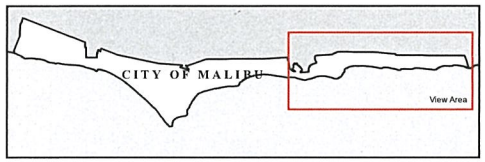
Date Prepared: 9/7/201

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Date Prepared: 9/7/2018

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **WEDNESDAY, September 26, 2018, at 5:00 p.m. in the Council Chambers, Malibu City Hall**, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

PLEASE NOTE: This hearing was originally scheduled for the September 11, 2018 City Council meeting which has been cancelled.

SHORT-TERM RENTAL ORDINANCE

ZONING TEXT AMENDMENT NO. 17-002 – On July 9, 2018, the Malibu City Council considered amendments to Title 17 (Zoning Ordinance) of the Malibu Municipal Code and the Planning Commission's recommendations regarding short-term rental of property (also known as vacation rentals) in residential and multi-family zones. At the conclusion of the hearing, Council requested changes to the draft ordinance and some additional information, including but not limited to options for making primary residency a requirement; limiting the number of short-term rental permits to one per individual, property or assessor parcel number; allowing some portion of a multi-family building to be used for short-term rental; and options for requiring a wastewater system operating permit. This information and a revised draft ordinance will be presented at a new public hearing on September 26, 2018.

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Justine Kendall, Assistant Planner (310) 456-2489, extension 301 jkendall@malibucity.org

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

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Attachment D

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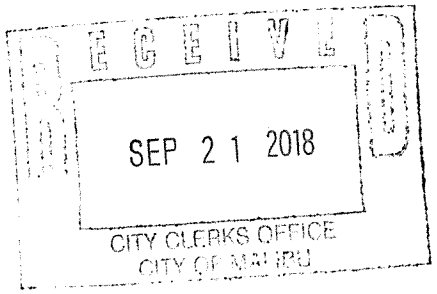
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Bonnie Blue
Planning Director

Publish Date: August 30, 2018

STATE OF CALIFORNIA -- NATURAL RESOURCES AGENCY
EDMUND G. BROWN, JR., *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



September 20, 2018

Bonnie Blue, Planning Director
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Subject: Short-term Rental Ordinance

Dear Ms. Blue:

Commission staff has reviewed the September 6, 2018 staff report regarding the subject proposed Malibu Municipal Code (MMC) amendment to establish provisions to regulate short-term rental of property citywide that is scheduled to be considered by the Malibu City Council at its September 26, 2018 hearing. We appreciate the opportunity to provide the following comments.

Based on a review of the draft ordinance language and the City's staff report, it is Commission staff's understanding that the City is considering the adoption of a ordinance that would allow for the continuance of short-term rental of residential property in single-family homes in the City and allow for the rental of a maximum of two units per multifamily apartment property within the City; would create a new permitting system where the owner of a short-term rental property must possess a valid Short-Term Rental Permit (STR Permit) and Onsite Wastewater Treatment System Operating Permit; establish limits on the number of operating permits a natural person may be issued; requirements regarding onsite parking; and enforcement protocols.

Commission staff views the City's proposed amendment as a supportable effort to provide for some regulatory controls and management provisions for short term rentals. However, we believe that vacation rental regulations in the coastal zone must occur within the context of the City's LCP. We encourage the City to submit an LCP amendment to the Commission that includes policies and provisions that reflects the subject MMC amendment regarding short-term rentals. We are happy to coordinate with City Staff and provide comments on specific LCP amendment language once it is developed.

Thank you for your attention to this matter. We appreciate the City's consideration of our comments. Please feel free to contact me if you have any questions.

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/26/18
Agenda Item # 4B

Sincerely,

Denise Venegas

Denise Venegas
Coastal Program Analyst

cc: Reva Feldman, City Manager, City of Malibu

ATTACHMENT 3

CC: Council; CM; CA; PL; Ref. Binder; Original 90 9/26/18 Agenda File

City of Malibu

City Council Policy

Policy #3

Title: General Fund Undesignated Reserve Policy

Purpose: To establish a General Fund Undesignated Reserve Policy for the Malibu City Government.

Policy Statement:

The City of Malibu's goal is to maintain a minimum amount in the General Fund of at least fifty (50) percent of budgeted fiscal year expenditures for its General Fund.

Implementation:

Each fiscal year, during the budgeting process, the minimum reserve will be re-evaluated by the City Council to determine if the reserve amount is adequate based on economic conditions of the City and/or region.

The City Council shall receive regular reports on the fund balances of all city funds.

Should the fund balance of the General Fund fall below the minimum reserve level, the City Manager shall prepare a plan for consideration by the City Council to rebuild the fund balance during the next budgeting process.

Date Adopted:

May 6, 1997

Date Amended:

November 28, 2011

Recycled Paper

City of Malibu

DRAFT - Financial Analysis

City Council Presentation – October 28, 2019

RAFTELIS

Agenda

- Current Situation
- Financial Model Functionality
- Key Assumptions
  - Woolsey Fire
  - Short-Term Rentals
- Status Quo
- Scenarios
- Key Take Away

Current Situation

- Starting from a strong financial position
- Woolsey Fire had major impact
  - Reduced revenues
  - Significant response and rebuild costs
- Evaluating a ban on short-term rentals

The City engaged Raftelis to develop a financial planning model and analyze financial impacts of the Woolsey Fire and potential short-term rental ban

Process

- Obtain critical data
- Review and analyze data
  - Most importantly the City's current and past budgets
- Develop assumptions to forecast all revenues and expenses
- Validate assumptions with City staff
- Build the financial planning model
- Validate the model with City staff
- Present findings

Model Functionality

- The model takes into account
  - Impacts from Woolsey Fire
  - Impacts from a potential short-term rental ban
- The model can evaluate
  - Cost of the Woolsey Fire
  - Cost of partial and full short-term rental ban
- The model dashboards
  - Financial Plan
  - Fund Balance
  - Revenues and Expenditures

Budget Areas Evaluated

- Revenues
  - Property tax
  - TOT and all other taxes
  - Licenses and permits
  - Fines and forfeitures
  - FEMA/OES and other government revenues
  - Service charges
  - Interest earnings and use fees
  - Miscellaneous revenues
- Expenditures
  - All City departments
  - Fire rebuild
  - Storm response
  - Disaster related capital projects
  - City's capital improvement plan

Other Items Evaluated

- Revenues
  - Increase in registration revenues due to a partial short-term rental ban
  - Increase in short-term rental penalties due to short-term rental ban
- Expenditures
  - Increased enforcement costs due to a partial or short-term rental ban
  - Potential increase in legal costs due to a full short-term rental ban

Insufficient Data to Quantify:

- "Trickle down effect" of short-term rental ban scenarios
- Possible impact to sales tax of short-term rental ban scenarios
- Potential impact to property values of short-term rental ban scenarios

Assumptions

- Informed, reasonable, and conservative
- Revenues
  - Historical property tax growth rates
  - CPI
  - Historical trends
  - Special assumptions based on inputs and scenarios
- Expenditures
  - CPI
  - Historical trends
  - Special assumptions based on inputs and scenarios
  - Actual debt service



Financial Policies

- Reserve Targets
  - Fund Balance
    - City Council Policy – 50% of operating budget
    - City Council Goal – 65%
  - The City has been and remains committed to maintaining a healthy general fund reserve in recognition of the City's disaster prone environment



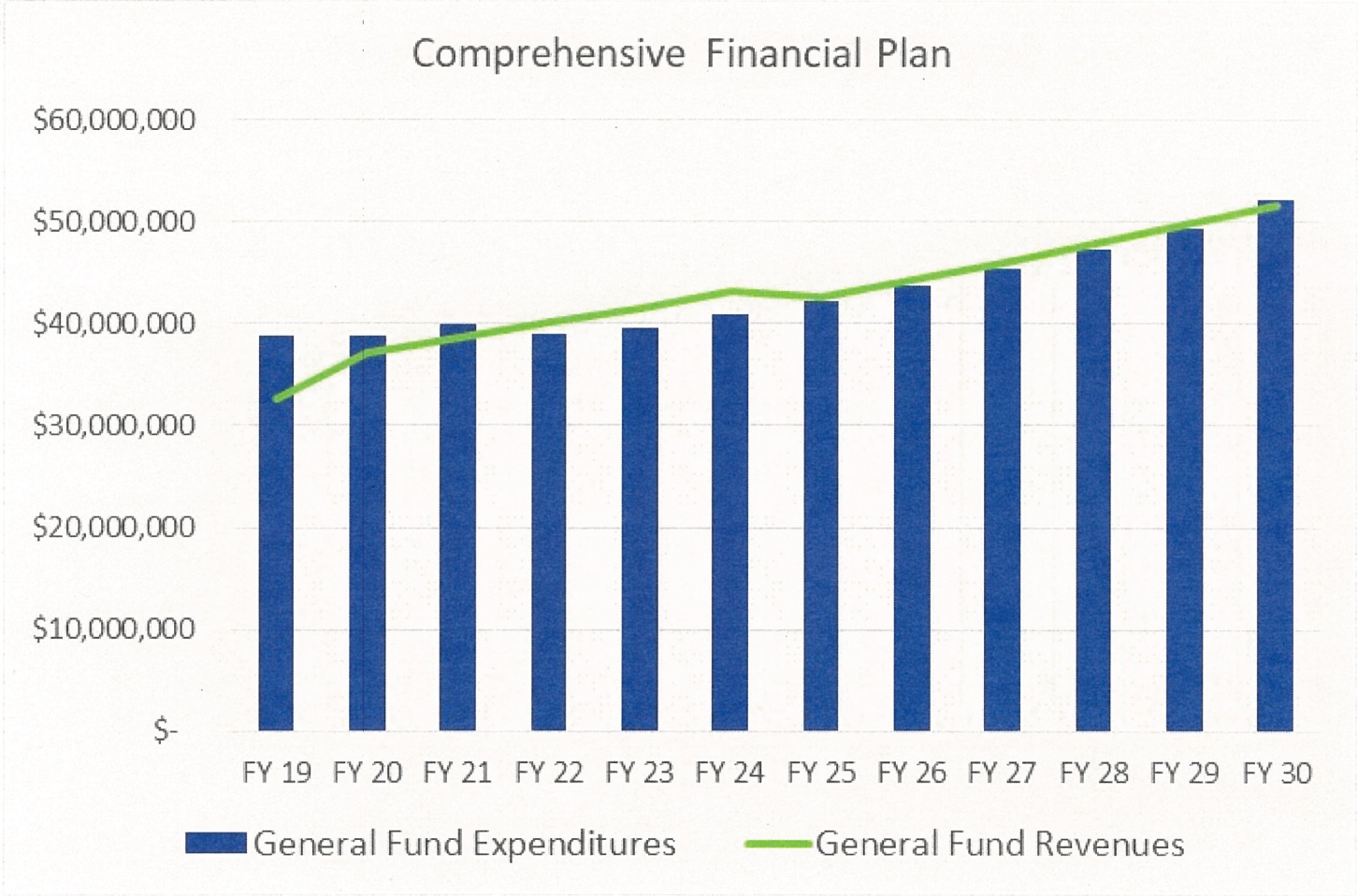
Status Quo Summary

- Property value growth rate of 5.7%
  - Based upon 2012 to 2019 growth rate
- Fees increase at CPI
- Impacts of Woolsey Fire
  - Major general fund operating expenditures continue through 2023
  - Additional flood/debris flow mitigation through 2026
  - FEMA reimbursements over 5 years beginning in FY 2021
- No short-term rental ban
- Debt service increases substantially due to 2018 COP
  - For the purchase of vacant land
- Public Safety
  - Recent increases to level of service flow into forecast
  - Increase in FY 2023 due to new Sheriff station

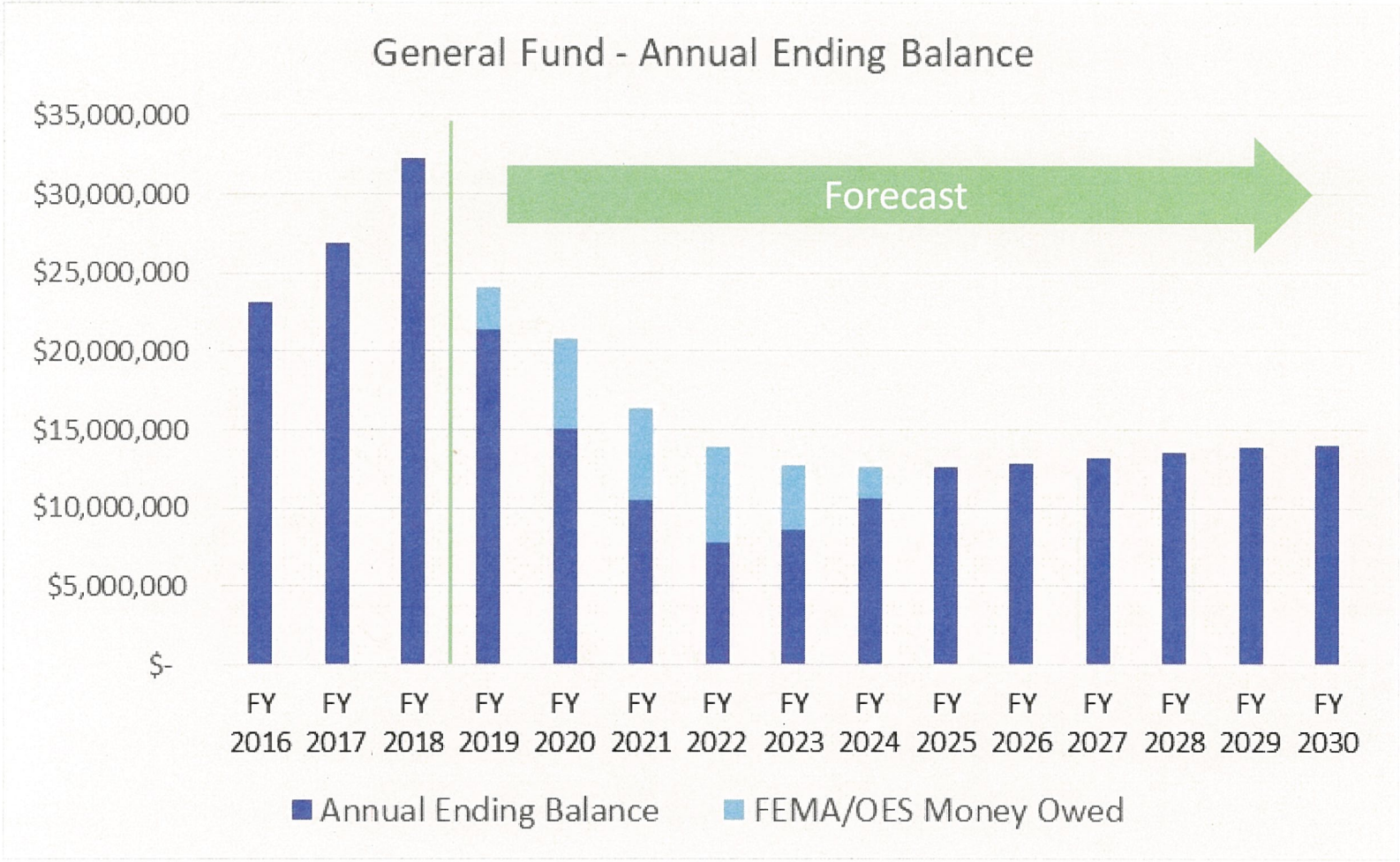
Change in Property Tax
From 2003 to 2020



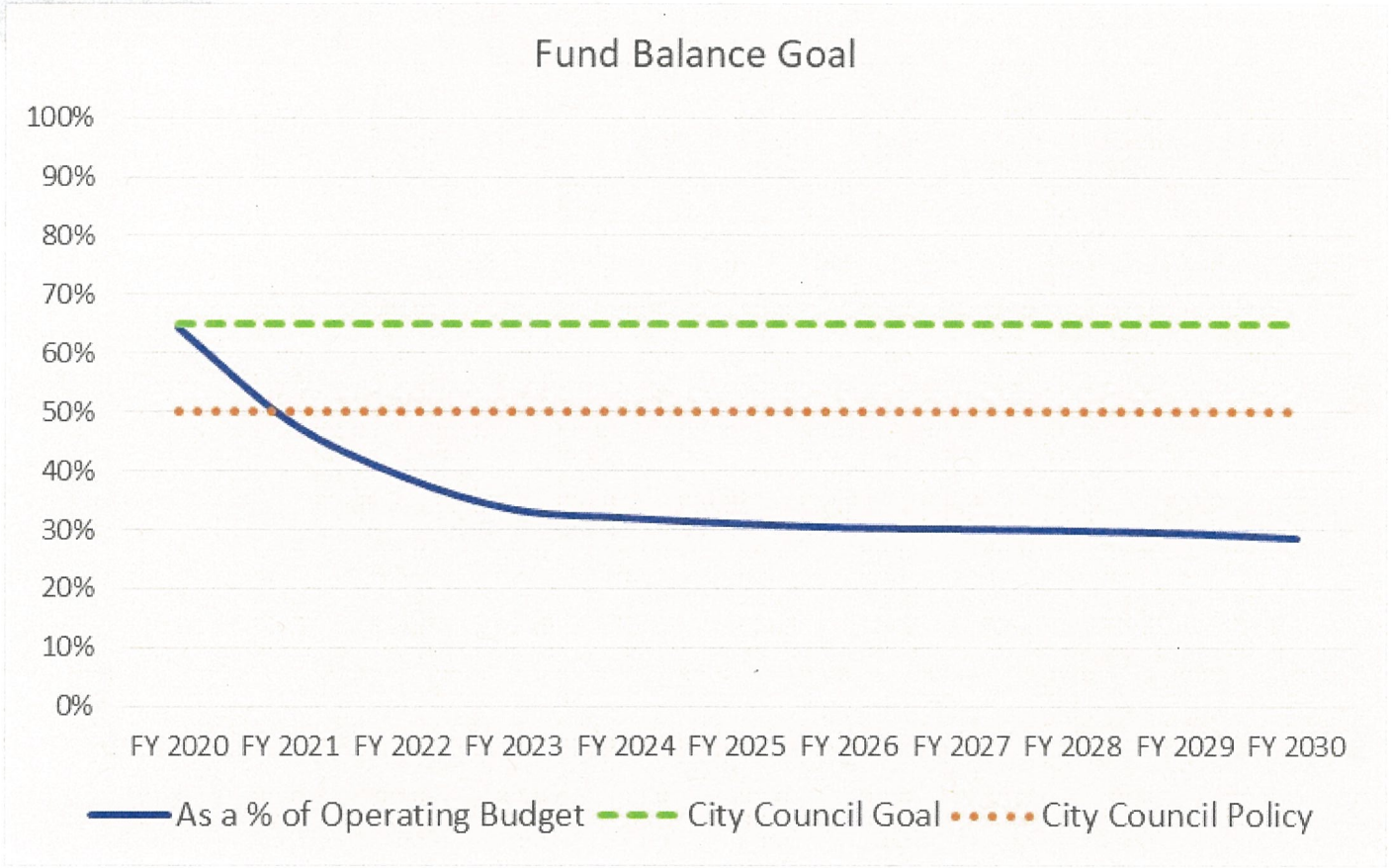
Status Quo - Financial Plan



Status Quo – Ending Fund Balance



Status Quo – Fund Balance Goal



Key Observations – Status Quo

- Property Tax revenue assumptions subject to high degree of variability
- Un-reimbursed Woolsey Fire costs reduce General Fund balance by $13.4 million from FY 2019 – FY 2025
- Increase in COP debt service for the purchase of vacant land and expected public safety costs impact City's ability to restore general fund reserves

Assumptions – Woolsey Fire

- Property Tax Values
  - 3 Year Recovery
- Capital
  - FEMA/OES reimbursable costs
  - Non-reimbursable General Fund costs
- Operating
  - Fire rebuild costs
    - Increase consultant cost
  - Storm response costs
- "Like for Like" Permit Waivers
  - Due to waivers being offered in FY 2020, study assumed historical average for permit revenues
  - City may actually see an increase in permit revenues due to residents who do not rebuild "Like for Like."
  - Revenue impacts from permits associated with rebuilds is difficult to quantify



Woolsey Fire – Impacts Overview

Woolsey Fire Recovery Table	FY19 - FY25 Total
CIP General Fund - Not Reimbursable	$ 1,257,220
CIP FEMA/OES - Reimbursable	10,080,001
3002 Fire Rebuilds	9,835,737
3002 Storm Response	2,300,000
Total Cost	**$ 23,472,958**
Projected FEMA/OES Reimbursements	**$ 10,080,001**
Net Cost to the City	**$ 13,392,957**

Potential Short-Term Rental Ban Assumptions

- Status Quo Assumption
  - TOT revenues increase from pre-fire levels based on CPI
- Partial Ban Assumptions
  - 50% or 25% reduction to STR-TOT revenues in FY 2021
  - Lost revenue percentages designed to approximate the level of restrictiveness of potential regulation/ban
- Full Ban Assumptions
  - 100% reduction to STR-TOT revenues in FY 2021
- For All Ban Scenarios the Study Evaluated
  - Potential impacts to STR registration and enforcement penalty revenues
  - Potential costs of additional code enforcement staffing

10 Year Impact on Short-Term Rental Ban
FY 2021 to FY 2030

	Estimated STR Revenue	Net Impact vs. Status Quo
No Ban	$ 27,600,000	
Partial Ban 25%	$ 22,659,000	$ (6,300,000)
Partial Ban 50%	$ 15,792,000	$ (13,167,000)
Full Ban	$251,000	$ (30,036,000)

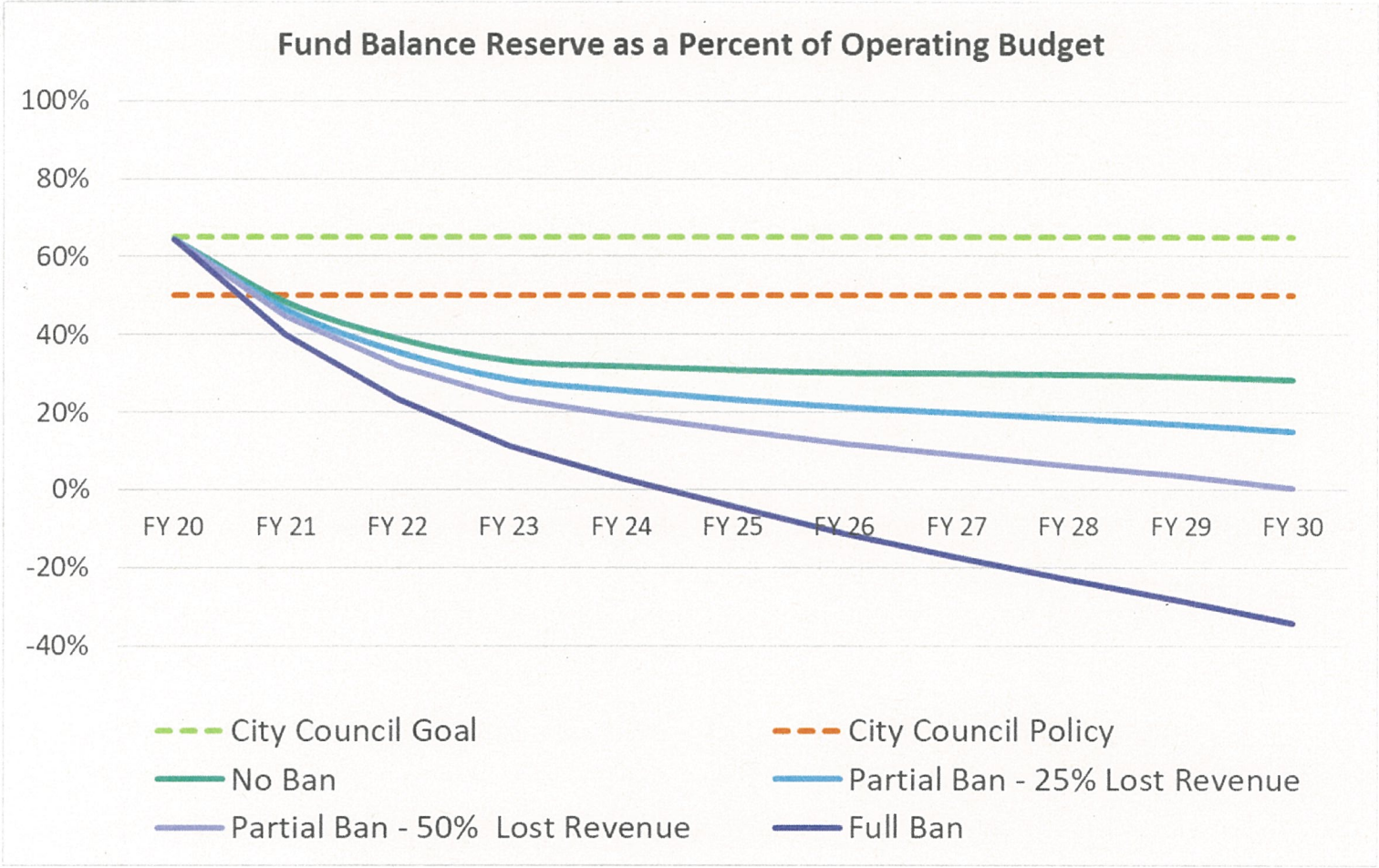
Revenues Include:

- STR-TOT
- STR Registrations
- STR Penalties



Fund Balance Goal – STR Ban Scenarios

DRAFT



Key Take Away

- City needs to carefully monitor and forecast property tax revenues due to variability
- A partial or full short-term rental ban could significantly impact the City's finances
  - Already strained by the vacant land purchase, Woolsey Fire, winter storms and the fire rebuild
- City should work to minimize non-reimbursable one-time Woolsey costs
  - Currently estimated at $13.4 million from FY19 – FY25
- Consider limiting service level enhancements until full impact of Woolsey Fire determined
- May need to defer General Fund CIP projects



Thank you!

Transient Occupancy Tax Rates Throughout California

City	TOT Tax Rates
Long Beach	12-15%
Anaheim	15%
Beverly Hills	14%
Los Angeles	14%
Marina	14%
San Francisco	14%
Santa Monica	14%
Solana Beach	13%
Agoura Hills	12%
Calabasas	12%
Carpinteria	12%
County of Los Angeles	12%
County of Santa Barbara	12%
El Segundo	12%
Glendale	12%
Goleta	12%
Half Moon Bay	12%
Hermosa Beach	12%
Laguna Beach	12%
Malibu	12%
Pacific Grove	12%
Redondo Beach	12%
Seaside	12%
Sonoma	12%
Santa Cruz	11%
Torrance	11%
Carlsbad	10%
Carmel	10%
Chula Vista	10%
Dana Point	10%

Transient Occupancy Tax Rates Throughout California

City	TOT Tax Rates
Manhattan Beach*	10%
Monterey	10%
Morro Bay	10%
Oceanside	10%
Oxnard	10%
Pismo Beach	10%
Rancho Palos Verdes	10%
San Clemente	10%
San Luis Obispo	10%
San Mateo	10%
Santa Barbara	10%
Thousand Oaks	10%
Ventura	10%
Westlake Village	10%
Newport Beach	9%
Laguna Niguel	8%
Pasadena	7%
San Diego	6%
Hidden Hills	n/a

*Manhattan Beach is planning to increase rates to 12% May 1, 2020

ATTACHMENT 6

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105- 2219
VOICE (415) 904- 5200
FAX (415) 904- 5400
TDD (415) 597-5885

December 6, 2016

TO: Coastal Planning/Community Development Directors

SUBJECT: Short-Term/Vacation Rentals in the California Coastal Zone

Dear Planning/Community Development Director:

Your community and others state and nationwide are grappling with the use of private residential areas for short-term overnight accommodations. This practice, commonly referred to as vacation rentals (or short-term rentals), has recently elicited significant controversy over the proper use of private residential stock within residential areas. Although vacation rentals have historically been part of our beach communities for many decades, the more recent introduction of online booking sites has resulted in a surge of vacation rental activity, and has led to an increased focus on how best to regulate these rentals.

The Commission has heard a variety of viewpoints on this topic. Some argue that private residences should remain solely for the exclusive use of those who reside there in order to foster neighborhood stability and residential character, as well as to ensure adequate housing stock in the community. Others argue that vacation rentals should be encouraged because they often provide more affordable options for families and other coastal visitors of a wide range of economic backgrounds to enjoy the California coastline. In addition, vacation rentals allow property owners an avenue to use their residence as a source of supplemental income. There are no easy answers to the vexing issues and questions of how best to regulate short-term/vacation rentals. The purpose of this letter is to provide guidance and direction on the appropriate regulatory approach to vacation rentals in your coastal zone areas moving forward.

First, please note that vacation rental regulation in the coastal zone must occur within the context of your local coastal program (LCP) and/or be authorized pursuant to a coastal development permit (CDP). The regulation of short-term/vacation rentals represents a change in the intensity of use and of access to the shoreline, and thus constitutes development to which the Coastal Act and LCPs must apply. We do not believe that regulation outside of that LCP/CDP context (e.g., outright vacation rental bans through other local processes) is legally enforceable in the coastal zone, and we strongly encourage your community to pursue vacation rental regulation through your LCP.

The Commission has experience in this arena, and has helped several communities develop successful LCP vacation rental rules and programs (e.g., certified programs in San Luis Obispo and Santa Cruz Counties going back over a decade; see a summary of such LCP ordinances on our website at:
https://documents.coastal.ca.gov/assets/la/Sample_of_Commission_Actions_on_Short_Term_Rentals

ATTACHMENT 7

.pdf). We suggest that you pay particular attention to the extent to which any such regulations are susceptible to monitoring and enforcement since these programs present some challenges in those regards. I encourage you to contact your local district Coastal Commission office for help in such efforts.

Second, the Commission has not historically supported blanket vacation rental bans under the Coastal Act, and has found such programs in the past not to be consistent with the Coastal Act. In such cases the Commission has found that vacation rental prohibitions unduly limit public recreational access opportunities inconsistent with the Coastal Act. However, in situations where a community already provides an ample supply of vacation rentals and where further proliferation of vacation rentals would impair community character or other coastal resources, restrictions may be appropriate. In any case, we strongly support developing reasonable and balanced regulations that can be tailored to address the specific issues within your community to allow for vacation rentals, while providing appropriate regulation to ensure consistency with applicable laws. We believe that appropriate rules and regulations can address issues and avoid potential problems, and that the end result can be an appropriate balancing of various viewpoints and interests. For example, the Commission has historically supported vacation rental regulations that provide for all of the following:

- Limits on the total number of vacation rentals allowed within certain areas (e.g., by neighborhood, by communitywide ratio, etc.).
- Limits on the types of housing that can be used as a vacation rental (e.g., disallowing vacation rentals in affordable housing contexts, etc.).
- Limits on maximum vacation rental occupancies.
- Limits on the amount of time a residential unit can be used as a vacation rental during a given time period.
- Requirements for 24-hour management and/or response, whether onsite or within a certain distance of the vacation rental.
- Requirements regarding onsite parking, garbage, and noise.
- Signage requirements, including posting 24-hour contact information, posting requirements and restrictions within units, and incorporating operational requirements and violation consequences (e.g., forfeit of deposits, etc.) in rental agreements.
- Payment of transient occupancy tax (TOT).
- Enforcement protocols, including requirements for responding to complaints and enforcing against violations of vacation rental requirements, including providing for revocation of vacation rental permits in certain circumstances.

These and/or other provisions may be applicable in your community. We believe that vacation rentals provide an important source of visitor accommodations in the coastal zone, especially for larger families and groups and for people of a wide range of economic backgrounds. At the same time we also recognize and understand legitimate community concerns associated with the potential adverse impacts associated with vacation rentals, including with respect to community character and noise

and traffic impacts. We also recognize concerns regarding the impact of vacation rentals on local housing stock and affordability. Thus, in our view it is not an 'all or none' proposition. Rather, the Commission's obligation is to work with local governments to accommodate vacation rentals in a way that respects local context. Through application of reasonable enforceable LCP regulations on such rentals, Coastal Act provisions requiring that public recreational access opportunities be maximized can be achieved while also addressing potential concerns and issues.

We look forward to working with you and your community to regulate vacation rentals through your LCP in a balanced way that allows for them in a manner that is compatible with community character, including to avoid oversaturation of vacation rentals in any one neighborhood or locale, and that provides these important overnight options for visitors to our coastal areas. These types of LCP programs have proven successful in other communities, and we would suggest that their approach can serve as a model and starting place for your community moving forward. Please contact your local district Coastal Commission office for help in such efforts.

Sincerely,



STEVE KINSEY, Chair
California Coastal Commission

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105- 2219
VOICE (415) 904- 5200
FAX (415) 904- 5400
TDD (415) 597-5885

December 6, 2016

TO: Coastal Planning/Community Development Directors

SUBJECT: Short-Term/Vacation Rentals in the California Coastal Zone

Dear Planning/Community Development Director:

Your community and others state and nationwide are grappling with the use of private residential areas for short-term overnight accommodations. This practice, commonly referred to as vacation rentals (or short-term rentals), has recently elicited significant controversy over the proper use of private residential stock within residential areas. Although vacation rentals have historically been part of our beach communities for many decades, the more recent introduction of online booking sites has resulted in a surge of vacation rental activity, and has led to an increased focus on how best to regulate these rentals.

The Commission has heard a variety of viewpoints on this topic. Some argue that private residences should remain solely for the exclusive use of those who reside there in order to foster neighborhood stability and residential character, as well as to ensure adequate housing stock in the community. Others argue that vacation rentals should be encouraged because they often provide more affordable options for families and other coastal visitors of a wide range of economic backgrounds to enjoy the California coastline. In addition, vacation rentals allow property owners an avenue to use their residence as a source of supplemental income. There are no easy answers to the vexing issues and questions of how best to regulate short-term/vacation rentals. The purpose of this letter is to provide guidance and direction on the appropriate regulatory approach to vacation rentals in your coastal zone areas moving forward.

First, please note that vacation rental regulation in the coastal zone must occur within the context of your local coastal program (LCP) and/or be authorized pursuant to a coastal development permit (CDP). The regulation of short-term/vacation rentals represents a change in the intensity of use and of access to the shoreline, and thus constitutes development to which the Coastal Act and LCPs must apply. We do not believe that regulation outside of that LCP/CDP context (e.g., outright vacation rental bans through other local processes) is legally enforceable in the coastal zone, and we strongly encourage your community to pursue vacation rental regulation through your LCP.

The Commission has experience in this arena, and has helped several communities develop successful LCP vacation rental rules and programs (e.g., certified programs in San Luis Obispo and Santa Cruz Counties going back over a decade; see a summary of such LCP ordinances on our website at:
https://documents.coastal.ca.gov/assets/la/Sample_of_Commission_Actions_on_Short_Term_Rentals

.pdf). We suggest that you pay particular attention to the extent to which any such regulations are susceptible to monitoring and enforcement since these programs present some challenges in those regards. I encourage you to contact your local district Coastal Commission office for help in such efforts.

Second, the Commission has not historically supported blanket vacation rental bans under the Coastal Act, and has found such programs in the past not to be consistent with the Coastal Act. In such cases the Commission has found that vacation rental prohibitions unduly limit public recreational access opportunities inconsistent with the Coastal Act. However, in situations where a community already provides an ample supply of vacation rentals and where further proliferation of vacation rentals would impair community character or other coastal resources, restrictions may be appropriate. In any case, we strongly support developing reasonable and balanced regulations that can be tailored to address the specific issues within your community to allow for vacation rentals, while providing appropriate regulation to ensure consistency with applicable laws. We believe that appropriate rules and regulations can address issues and avoid potential problems, and that the end result can be an appropriate balancing of various viewpoints and interests. For example, the Commission has historically supported vacation rental regulations that provide for all of the following:

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- Limits on the types of housing that can be used as a vacation rental (e.g., disallowing vacation rentals in affordable housing contexts, etc.).
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These and/or other provisions may be applicable in your community. We believe that vacation rentals provide an important source of visitor accommodations in the coastal zone, especially for larger families and groups and for people of a wide range of economic backgrounds. At the same time we also recognize and understand legitimate community concerns associated with the potential adverse impacts associated with vacation rentals, including with respect to community character and noise

and traffic impacts. We also recognize concerns regarding the impact of vacation rentals on local housing stock and affordability. Thus, in our view it is not an 'all or none' proposition. Rather, the Commission's obligation is to work with local governments to accommodate vacation rentals in a way that respects local context. Through application of reasonable enforceable LCP regulations on such rentals, Coastal Act provisions requiring that public recreational access opportunities be maximized can be achieved while also addressing potential concerns and issues.

We look forward to working with you and your community to regulate vacation rentals through your LCP in a balanced way that allows for them in a manner that is compatible with community character, including to avoid oversaturation of vacation rentals in any one neighborhood or locale, and that provides these important overnight options for visitors to our coastal areas. These types of LCP programs have proven successful in other communities, and we would suggest that their approach can serve as a model and starting place for your community moving forward. Please contact your local district Coastal Commission office for help in such efforts.

Sincerely,



STEVE KINSEY, Chair
California Coastal Commission

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing at a Special Meeting held on **TUESDAY, December 3, at 5:00 p.m. in the Council Chambers, Malibu City Hall**, 23825 Stuart Ranch Road, Malibu, CA, for the project identified below.

SHORT-TERM RENTAL ORDINANCE

ZONING TEXT AMENDMENT NO. 17-002 – On October 28, 2019, the Malibu City Council considered additional information and analysis, including a financial analysis, on the implications of a potential ban on short-term rentals in residential zones, as well as approaches to using the Local Coastal Program amendment process, and the approaches of other coastal cities to regulating short-term rentals in their jurisdictions. At the conclusion of the hearing, Council requested minor changes to the draft ordinance previously considered on September 26, 2018 (Zoning Text Amendment (ZTA) No. 17-002), which would amend the Malibu Municipal Code, and directed staff to return with the ordinance for adoption. Also, the City Council directed staff to initiate a ZTA and Local Coastal Program Amendment (LCPA) that would be substantially similar to the City of Santa Monica's home-sharing ordinance but requiring the property owner to be onsite (not in the dwelling unit) during the short-term rental, and to take the draft ZTA and LCPA directly to the Planning Commission. The updated version of the September 26, 2018, draft ordinance (ZTA No. 17-002) will be presented to the City Council for consideration at a Special Council Meeting on December 3, 2019, with the expectation that it would be superseded when the new ZTA and LCPA were adopted.

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Justine Kendall, Assistant Planner (310) 456-2489, extension 301 jkendall@malibucity.org

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

A written staff report will be available at or before the hearing. All persons wishing to address the Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents are available for review at City Hall during regular business hours. Written comments may be presented to the City Council at any time prior to the beginning of the public hearing.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Justine Kendall, Assistant Planner, at (310) 456-2489, extension 301.

Bonnie Blue
Planning Director

Publish Date: November 7, 2019

RECEIVED
Dec 03 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Kelsey Pettijohn

Subject: short term rentals

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

From: Anthony McDemas
Date: December 3, 2019 at 2:00:17 PM PST
To: Karen Farrer <kfarrer@malibucity.org>
Subject: short term rentals

Hi Karen,

I'm reaching out on behalf of visitor and recreation serving businesses. My family and I could never afford to live in Channel Islands Harbor, but we can enjoy it by renting a home for the a weekend of family fun each year. I'm sure the same is true in Malibu. As you know Malibu has about 150 hotel rooms. Short term rentals are an important part of visitor and recreation landscape. I hope you and the rest of the City Council will keep that in mind at tonight's meeting.

Thank you for your consideration.

--
Anthony McDemas
Malibu Santa Monica Mountains Recreation & Visitor Alliance
What To Do In Malibu - now online

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/19 Agenda File


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dining
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wines
weddings
What to do in
MALIBU
The Insider's Guide to Malibu & Santa Monica Mountains
Malibu Pier
Malibu's Iconic Landmark
CIELO
A Tuscan Dream in the Malibu Mountains
KING GILLETTE RANCH
A Center Worth a Visit
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weddings
What to do in
MALIBU
The Insider's Guide to Malibu & Santa Monica Mountains
Cielo
A Tuscan Dream in the Malibu Mountains
MALIBU PIER
Malibu's Iconic Landmark
KING GILLETTE RANCH
A Center Worth a Visit

Heather Glaser

Subject: Your request for additional questions

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

From: Anne
Sent: Monday, November 4, 2019 6:00 AM
To: Justine Kendall <jkendall@malibucity.org>
Subject: Your request for additional questions

Thanks for your reply, Justine. I do have some questions.

1) Please tell me if I am correct in my understanding that I will soon need to prove a full-time residency of 185 days a year with a drivers license or utility bills to my Malibu address. Failing that, a part-time residency will restrict my short-term rentals to between April 1 and September 30, foregoing the high seasons of Thanksgiving, Christmas and Spring Break!

And if I do need the summer income to afford my property, I or a property manager must live on the premises during the vacationers' stay for an airbnb "sharing" arrangement vs. the current guest family's enjoyment of the privacy and security of the entire gated property?

2) May I take new bookings without these restrictions until the legislation is passed?

3) Will I be able to honor all bookings (whether new or old) after the legislation is passed as I already have STR bookings for the entire property in February and August of 2020!

4) Although I was told upon purchasing my property in 2001 that my beachfront property was zoned for not more than one family occupancy, that the zoning will be changed. So that if I choose, I will be permitted to convert the garage to an Accessory Dwelling Unit (ADU)?

5) All short-term rental applicants shall be required to acquire an OWTS operating permit at a cost of $400 to $1,000, with remedial repairs to residential OWTS varying from $1,000 to $20,000?

6) And, finally, before I am forced to sell my Malibu beach home which I've loved for 20 years and kept as a vacation rental so I could vacation there myself, please tell me: is it possible that a newly-elected City Council would overturn this decision?

Look forward to hearing from you and thanks again to you, Patricia and Mary for being there for all the citizens of Malibu.

Best always,

Anne

On Oct 31, 2019, at 10:04 AM, Justine Kendall <jkendall@malibucity.org> wrote:

Hi Anne,

cc: Council; CM; CA; PL; Pcf. Binder; original to 12/3/19 Agenda file

Patricia forwarded your email to me. The City Council didn't actually pass any legislation Monday night; rather they confirmed that they would like the ordinance that was presented and discussed on September 26 of last year to be brought back with a few minor edits for adoption. In order for that to take place there will be a first reading of the ordinance, then a second reading where it will be a officially adopted. In addition, they asked staff to come back with an agenda item (for that same meeting at which the first reading of the ordinance similar to the 9/26/2018 ordinance will occur) for City Council to initiate (i.e. tell staff to go ahead) a Zoning Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) in line with the Santa Monica ordinance regarding regulation of home-sharing and short-term rentals. Once those (the ZTA and LCPA) are passed, the 9/26/2018 related ordinance will superseded.

A copy of the 9/26/2018 ordinance is available here. Below is the formal action statement from the meeting:

On October 28, the City Council directed staff to: 1) initiate a Zoning Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals per direction provided by Council including adopting provisions similar to Santa Monica's homesharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and 2) bring back an updated version of the September 26, 2018, draft ordinance to the City Council for adoption, with the understanding it would be superseded when the new ZTA and LCPA were approved.

Feel free to give me a call if you'd like to talk about this more!
Justine

Justine Kendall | Assistant Planner | City of Malibu
Address: 23825 Stuart Ranch Road, Malibu, CA 90265
Phone: (310) 456-2489 ext. 301
Fax: (310) 456-7650
Email: jkendall@malibucity.org

Connect with the City of Malibu!
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Kelsey Pettijohn

RECEIVED
Dec 02 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Subject: Comments on Short term Ordinance

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

From: Brian Merrick
Sent: Monday, December 2, 2019 4:21 PM
To: Skylar Peak <speak@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Heather Glaser <hglaser@malibucity.org>
Subject: Comments on Short term Ordinance

With regards to the Short term Rental Ordinance I have the following opinions. As a real estate professional I am strongly against any short term rentals. However, as a property owner I am more against the Government overreaching and trying to regulate every aspect of one's life. So on this matter I am mostly neutral. It is apparent that the people on both sides of this argument do want some form of regulations enacted.

I have read the draft ordinance and am mostly in favor of the requirements outlined in the draft with the exception of the following items:

1. **The OWTS requirement for individuals who want to only rent a room in their house out.** This will put an onerous cost to upgrade the septic upon the old timers who are just looking to get a little extra income to attempt to keep up with the cost of living in Malibu.
** I am in favor of OWTS permits for whole property or whole house short term rentals, just not the one room in the house type of Short term rental variety.
2. **April 1 – Sept 30 allowable period for anyone who does not live at their property for more than 183 days a year.** Why? If the properties are all subject to the same regulations on citations, OWTS, and other regulations why would a long time family home be restricted because no one family member lives there for more than half the year.
** There are families who prefer to use short term rentals so that they can use their homes when it is not being rented. They will rotate between family members staying at the family house and the short term rental allows them to afford to keep the house in the family and for the members to use the house.
3. **The corporation designation is problematic:** Many properties are held in LLC's or Family partnerships whether they are used as a Short Term Rental or not. Properties should not be penalized for holding title a specific way.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/19 Agenda File

Overall if regulations must be put in place then this ordinance seems to be fair and balanced as it helps to address the bad apples who cause all the problems and still allows for the good ones to have the ability to earn income to offset the expensive costs of living.

--
Brian Merrick

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Heather Glaser

Subject: Half the purported "shortfall" is already paid

From: Bill Sampson
Date: November 14, 2019 at 2:16:30 PM PST
To: Jefferson Wagner, Mikke Pierson <mpierson@malibucity.org>, Karen Farrer <kfarrer@malibucity.org>, Rick Mullen <rmullen@malibucity.org>, Skylar Peak <speak@malibucity.org>
Subject: Half the purported "shortfall" is already paid

You may have already heard of this. I found the financial report's justifying turning my neighborhood into a motel zone and its suggestion of impending doom to be bogus - in the extreme - and here is more proof.

Malibu will receive $13.7 million from SCE for the Woolsey Fire. I don't recall our experts mentioning this money. We'll doubtless eventually receive FEMA money making up most of the rest of it. So, the purported shortfall if we don't get TOT from single family residences does not really exist. It only exists in the propaganda from staff to feather their already overly rich compensation packages.

It won't be long until Haynie's hotel is open. It alone will generate over a million per year in TOT while operating in a business zone.

There is no economic justification for permitting motels in our SFR neighborhoods, despite the tripe from the City Manager and her ilk.

See:
https://www.latimes.com/california/story/2019-11-13/southern-california-edison-settles-public-agencies-wildfires-mudslides

Bill Sampson

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

cc: Council; CM; CA; PL; Ref. Binder; original to 12/3/19 Agenda file

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CALIFORNIA

Southern California Edison strikes $360-million settlement over wildfires and mudslide



A Montecito freeway sign sits in mud on Highway 101 following the debris flows of late 2017. (Michael Owen Baker / For The Times)

By JOSEPH SERNA
STAFF WRITER

NOV. 13, 2019
3 PM

Southern California Edison has agreed to pay $360 million to dozens of public agencies affected by wildfires and mudslides in the last two years, attorneys involved in the deal said Wednesday.

The settlement closes 26 lawsuits involving 23 public entities filed against the utility, including Los Angeles County, which will receive $78 million, said attorney John Fiske, whose firm represented the county and other agencies in the litigation.

The public entities sued Southern California Edison over expenses and damage they incurred during and after the 2017 Thomas fire, the Montecito mudslide or the 2018 Woolsey fire. The settlement allocates $150 million for agencies affected by the Thomas fire and subsequent mudslide and $210 million for the Woolsey fire, including $13.7 million for the city of Malibu.

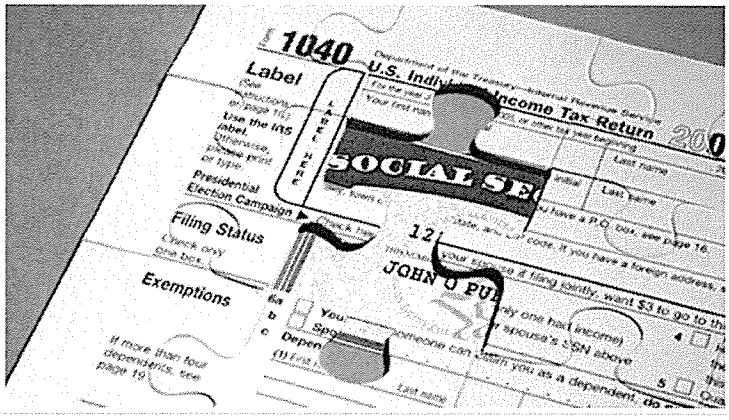
A portion of the settlement will be used by the various agencies to repay the California Office of Emergency Services and Federal Emergency Management Agency for their help during the incidents.

"This is the most comprehensive settlement for public entities in a wildfire case in California, probably ever," said Fiske, a lawyer with Baron & Budd, who represented the plaintiffs along with co-counsel Dixon Diab & Chambers.

Edison's equipment sparked the Thomas fire, which killed two people and scorched the Montecito hills in Santa Barbara County that flowed through town during a rainstorm a month later, killing 21 more. The utility stated in a corporate filing last month it could be found responsible for the Woolsey fire too, which was the biggest fire in L.A. County's history. It estimated its liability for the Woolsey fire plus the Thomas and mudslide could reach $4.7 billion.

The utility did not admit fault in the settlement and still faces lawsuits from individual residents and victims.

"We are pleased to reach agreements to resolve the claims brought by local government entities related to the 2017 and 2018 events," said Pedro J. Pizarro, the president and chief executive of the utility's parent company, Edison International, in a statement.



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Social Security & Taxes

By Merrill

Will your Social Security be taxed? Possibly up to 85%. Here's what to know.

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"We look forward to engaging with other parties who have a similar interest in good faith settlement efforts. We also will continue to make substantial investments in our system and enhance our operational practices to reduce the risk of wildfires in our service area and safely provide power to homes and businesses."

The settlement comes just weeks after customers of Southern California Edison and Pacific Gas & Electric slammed both utilities for turning off the power for millions to avoid fires similar to the Woolsey and Thomas. Both utilities have said they are working to make their grid more resilient and to improve outages' focus but that in the short term they plan to continue precautionary power shutdowns to avoid sparking deadly catastrophes.

In June, PG&E settled a suit with 14 public entities in Northern California also represented by Fiske's law firm for $1 billion for PG&E's role in the 2017 wine country fires and 2018 Camp fire in Paradise that killed 85 people.

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Joseph Serna

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Joseph Serna is a Metro reporter who has been with the Los Angeles Times since 2012.

Kelsey Pettijohn

Subject: December 3 special meeting of the City Council on motels in SFR zones, Agenda item 1

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

RECEIVED
Nov 26 2019
CITY CLERKS OFFICE
CITY OF MALIBU

From: Bill Sampson
Sent: Tuesday, November 26, 2019 3:24 PM
To: Patricia Salazar <psalazar@malibucity.org>
Subject: December 3 special meeting of the City Council on motels in SFR zones, Agenda item 1

Ms. Salazar - please deliver to the council and confirm that delivery. Thanks.

To: the Honorable City Council Members, City of Malibu
From: Bill and Rosemary Sampson, 31801 Cottontail Lane

Bill cannot attend this meeting due to a prior commitment. Rosemary might attend and give oral testimony.

Dear Council Members:

Since you are airing a repeat of the ordinance turned down over a year ago we are including our remarks at the time of its last, unlamented, introduction. We also introduce some new remarks.

First, we suggest that any council member that lives in an area with CC&Rs prohibiting the use contemplated by the ordinance should recuse himself/herself from consideration of this issue since that member would seek to impose a burden on citizens not borne by that member. Likewise, any council member renting out any property any where on a short term basis should be recused.

As we all know recitals are simply unsubstantiated remarks included as "make weight" to justify ill-considered actions. Recital 1 A is a great example. If the use of property in multi family dwellings is use as a motel there is no reason to consider that use of a house in an SFR neighborhood is use as a motel - a use NOT permitted by present law.

Recital IB simply ignores the numerous SFR owners who are also engaged in the motel business in violation of current law. Current law, by the way, has already passed Coastal Commission scrutiny. The only thing missing is the council actually governing staff and insisting upon enforcement. We can think of no reason for the lack of enforcement other than staff's reluctance to work on Friday, Saturdays and Sundays when the bulk of this illegal use poisons our street.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/19 Agenda File

As to recital ID the only resistance to enforcement of which we are aware comes from code enforcement staff. We have submitted numerous code enforcement complaints concerning the illegal motel on our street for around 5 years. Staff has refused, aided and abetted by past councils, including at least one member who rented her property out as a motel. As we have predicted, another motel on our street, even closer to us, just opened. Others are sure to follow. Ask yourselves just which of these motel visitors are going to coach our soccer and Little League teams and send their children to our schools, with ADA received for each such child.

Since you seem hell-bent on adopting an ordinance that staff is even more unlikely to enforce (their attitude always is "if we didn't personally see it it did not happen") we'll submit a few remarks on what you are considering:

Proposed Section 17.55.010 C 7 requires that the property owner notify an association. CC&Rs do not necessarily require formation of an association, yet, each benefited property is entitled to enforce those. The proposed ordinance should require the owner of the burdened property (who wants to create the motel) to notify EACH benefited property owner. For example there may be a tract of 50 homes in which each homeowner is benefited by a prohibition on 5 story buildings. An owner wishing to build such a structure would need the permission of EVERY benefited owner. The code section should include this requirement. It should also provide that if CC&Rs exist which prohibit the use as a motel exist that a permit should not be issued and that such use is illegal.

Additionally, for a violation of the above section (or for that matter any section) a private right of action should be granted so that any property owner claiming harm from such city permitted use should be able to seek a remedy against the property owner harming them.

There is no provision requiring the owner of such a motel to furnish contact information to the persons most affected, that is the neighbors. Phones and addresses should be furnished to all owners within the greater of 1000 feet of the property or the same tract. The "noise" person, Kimberly, has been completely ineffective for curtailing noise from unpermitted and/or noisy parties. The sheriff must be given the power to shut down violations immediately.

There is a proposed finding that the "new" ordinance complies with the LCP. Well, so does the old one and this body, the council, has NEVER attempted to enforce it. Why introduce a cobbled together ordinance that no staff will ever enforce without at least trying ONE TIME to enforce what is already there.

Finally, how in the hell are you going to enforce the parking provisions? You cannot and will not and you know it. "Our" current motel has an empty two car garage plus two parking spaces in the driveway and no guest ever parks anywhere but the street, meaning four to six extra vehicles plugging up a narrow street when not hitting third gear when racing down the street.

Bill and Rosemary Sampson

PS: By now you have to accept that the financial study was completely bogus what with the SCE settlement and the Haynie hotel due to come on line. Drop the catering to those who simply want a quick buck off Malibu and instead honor our Vision and Mission statements.

Our remarks from over a year ago are below and remain applicable.

On Tuesday, September 25, 2018, 02:14:31 PM PDT, Bill Sampson wrote:

To: The Honorable City Council members
From: Bill and Rosemary Sampson, 31801 Cottontail Lane, Malibu, CA 90265

City staff continues with what appears to be its efforts to answer the needs of corporate lobbyists rather than citizens. We call upon the city council to instead honor the Mission Statement and Vision Statement of our city.

We will review salient features of the staff report and of the proposed ordinance itself. First, however, we'd call upon you, again, to simply enforce existing law prohibiting businesses in residential zones. We have in place a simple municipal code section which, for reasons that continue to escape us, council and staff have refused to enforce despite three plus years of our pleas to do so. We would again urge you to actually enforce what is on the books. If, for some reason, that does not work - and you won't know unless you try - then perhaps you should consider strengthening the current ordinance, which, by the way, has already been vetted by the Coastal Commission.

Staff Report: Fiscal Impact
Comment: Nowhere within this section is ANY economic value placed upon the loss of quiet enjoyment suffered by the vast majority of Malibu citizens. Likewise, there is simply no allocation of appropriate resources for actual enforcement since it seems that hiring staff to work weekends, Friday to Sunday, is apparently something the city will not do. Why not? The bulk of the motel rentals (and please admit that these businesses are motels and drop the AirBnB propaganda) naturally are summer weekends. There is no fiscal impact from the additional traffic caused by having eight renters (doubtless with 4 or more vehicles) in a 3 bedroom house such as at 31827 Cottontail. Note that this owner has an illegal fourth bedroom and advertises it yet staff has done nothing. Staff also ignores the obvious fiscal effect of no school children in these single family homes as the vast majority of these proposed motels actually are.

Staff Report: Background
Comment: The first sentence in staff report, with no citation whatsoever to authority nor to the legal opinion of the city attorney, who has specifically declined to endorse the statement, is: "Short term rental of residential property is currently allowed in single-family homes in the City so long as such rental complies with the MMC . . . . ." This question begging and utterly false assertion ignores MMC Section 17.10.010 et seq. Section 17.10.010, in a sentence rather directly stating a portion of the Mission Statement, provides: "The SF district will serve the majority of the city's single-family residential parcels. The intent of the district is to enhance the rural characteristics of the community by maintaining low density residential development in a manner which respects surrounding property owners and the natural environment."
Staff's efforts to permit motels in our residential areas is, in fact, a direct contradition of the code and of the Mission Statement in that motels do absolutely nothing to enhance our rural characteristics of our community and in fact generate the opposite. Three of

you were elected in the most recent election because you swore you would uphold the Vision and Mission statements.

Host reports that 74% of the current rentals are for single family residences and are for the entire house. Your proposed ordinance turns these houses into motels, directly contravening existing law and the Vision and Mission Statements. Your attention is invited to this dispositive sentence from the Mission Statement: "Malibu will maintain its rural character by establishing programs and policies that avoid suburbanization and commercialization of its natural and cultural resources."
AirBnB and its ilk are nothing if not commercialization of our town's resources.

PARKING: The City Manager, Reva Feldman, has, at a council meeting, stated that people have the right to park on the street. Nevertheless the staff report and the concomitant suggested code section purport to limit motel guests to one parking space. If you think that is enforceable you are deluding yourselves. No one will ever be able to prove that a vehicle parked at the curb belongs to a motel guest. Likewise, since staff is unwilling to enforce obvious code violations (like an illegal fourth bedroom) at, for example, 31827 Cottontail Lane, that particular motel can and will and does and has rented to ten people with five vehicles, none of which are parked in the garage which has been illegally converted to a fourth bedroom. Staff uniformly takes the position that unless a staff member sees a violation it does not exist. These places are rented on weekends. Staff cannot and will not see these violations given their "see no evil" posture going back years if not decades.

Staff Report: Separate Permits for Primary Residents and Non-Primary Residents

Staff suggests a series of loopholes to permit these motels in residential neighborhoods, including the laughable proposition that two violations will result in loss of the permit. With no staff working weekends and staff's insistence that only their observations can be used to establish violations this suggestion would be laughably non-enforceable. Further, staff suggests that we concentrate the motel re-zoning in the summer months. Apparently staff is not kidding. That is just what Malibu needs. For a typical 3 bedroom house we have four residents. The proposed ordinance permits eight residences who will undoubtedly, based upon our personal observation of the motel on our street, arrive in four or more vehicles. MORE TRAFFIC is exactly what Malibu does not need in the summer. Don't we suffer enough? Apparently staff thinks we don't. The ordinance is terrible at best, but, if you just have to commercialize our neighborhoods in direct contradiction of our history and our law, why not restrict the use of these motels to lighter use times, say, October 1 to March 31, with no use permitted over Thanksgiving weekend and none from December 15 to January 5. Remember, your job is the protection of our existing resources, not the enabling of corporate chicanery.

Staff remarks: Draft Ordinance

Comment: Section 9 provides that issuance of the permit requires attestation, whatever that means in this context, that the permit will not violate CC&Rs. We would hope that you would place the burden of proving that the permit does not violate CC&Rs on the motel operator and likewise require that person to produce a preliminary title report showing the CC&Rs AND declare under penalty of perjury that his/her use does not violate those CC&Rs. Likewise, you should specifically create a right of private enforcement for anyone affected by a violation of this provision, that is, someone whose rights under the CC&Rs are abridged by issuance of the permit shall be permitted to enforce the ordinance.

Staff report: Implementation and Enforcement of the Proposed Ordinance: City Code Enforcement Staff.

Comment: There are three code enforcement officers who, according to the report, will "work with" the permit holder who violates the ordinance. Those code enforcement officers will work during "business hours" which in our city means every other Friday will have no enforcement and every Saturday and Sunday will have no enforcement. Since staff uniformly is in a "see no evil" posture how will these officers, absent during the vast majority of motel rentals, ever observe a violation? They won't. The suggestion by staff is actually designed to favor the carpet baggers and scofflaws who wish to commercialize our neighborhoods, rather than "working with" homeowners who simply wish to continue with quiet enjoyment of their homes. Remember, these motels are NOT homes, they are motels, plain and simple.

THE ORDINANCE ITSELF

Comment: Recital A: Again, the very first sentence asserts that these motels are currently allowed. That suggests they follow existing law. They do not. They violate the law, constituting illegal use in residential law and likewise violate the Vision and Mission Statements, both of which are incorporated into existing law.

Recital B: This recital states that the motels being operated in multi-family units are illegal. There is no reason give for why such use is not likewise illegal in single family neighborhoods. Such use is everywhere illegal in the city of Malibu.

Recital D: This states that code enforcement efforts have been met with resistance. There have been NO code enforcement efforts with regard to the illegal use of 31827 Cottontail Lane as a motel. The only resistance has come from staff.

Section 17.55.010 (C) (7) requires attestation that the permit seeker notify an HOA. The permit seeker should also be required to attest that s/he has notified all those in whose favor CC&Rs run, regardless of whether or not an HOA exists. It is entirely possible, in fact frequent, that CC&Rs exist without an HOA. Part of the attestation process should include a declaration under penalty of perjury that the notice has been given and that the proposed use does not violate the CC&Rs. The permit should include a preliminary title report for review by staff prior to issuance of the permit.

Section 17.55.010 (E) provides that the city shall give notice to all dwelling units within 500 feet of the parcel boundary. This section should provide that the city shall give notice to all those in favor of whom CC&Rs exist, regardless of the distance of the physical boundary lines of the property for which a permit is sought.

Section 17.55.020 (A) (3):

Comment: Again, who at the City works weekends? The simple answer is no one. These motels are weekend businesses. Do you really think the City Manager or designee will show up Saturday morning at 9 a.m., or Friday evening at 7 p.m., to seek access to the sorts of continuing illegality this ordinance encourages?

Section 4 of the "justifications" for the ZTA:

Comment: This section makes the ludicrous assertion that the proposed amendment to our municipal code will "concentrate commercial uses in certain areas and prevent sprawl throughout the City [General Plan LU Objective 4.21, 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]"

We do not use the term ludicrous likely. This ordinance will scatter motels throughout residential neighborhoods, not concentrate them. In fact the ordinance will do the exact opposite of your proposed finding. Motels in our neighborhood do not ensure development consistent with a rural residential community - again, the exact opposite of the purported finding.

The proposed ordinance, despite the suggested finding it complies with existing law, in fact is directly contradictory to the currently permitted uses in a single family residential neighborhood, which uses do not included operations of motels.

Respectfully submitted,

Rosemary and Bill Sampson, Malibu residents and voters since 1980.

RECEIVED
Dec 03 2019
CITY CLERKS OFFICE
CITY OF MALIBU

CHARLOTTE M FRIEZE

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

Mayor Farrer and Honorable Council Members,

Short Term Rentals have proven to be a disaster.

Neighborhood is key to our Malibu lifestyle. The rehabs are bad enough. Approving Short Term Rentals will just add to the destruction of the peace and quiet we all enjoy in Malibu.

Short Term Rentals bring strangers into our neighborhoods which diminishes recognition and therefore one's sense of safety. We already experience that lack of safety with the number of construction workers and tourists peering in to observe the destruction and reconstruction of our properties.

STRs disrupt Malibu's neighborhoods. Short-term renters show no respect for the community, the environment or the local residents. Their noisy parties echo in our canyons and reverberate down our beaches. Their trash flies through the air until it settles into the sand and brush.

Please ban Commercialized Short-term Rentals in Malibu as Laguna, Santa Monica and other nearby cities have.

Follow the lead of the Santa Monica ordinance that prohibits commercialized "whole unit STRs" by limiting short-term rentals to primary residences where the owner or operator is on-site while the guests are in occupancy.

Make sure the Short-term Rental Platforms are treated equally. All platforms must be required to collect and remit the Transient Occupancy Tax to the City.

There should be a STR registry requiring dual permits for primary residents (single family) and multi family buildings - one permit for the owner and one for the operator of the building.

In large multi-family units, limit the STRs to 20% of the total units.

There should be a budget requiring the City to use revenue from the TOT to cover the costs of two compliance officers and enforcement of the STR Ordinance.

It is most important to our neighborhoods to prohibit all events, parties and commercial use during guest use of the short-term rental. No special event permit or film permit shall be obtained for an event occurring at the dwelling unit during any period of guest occupancy.

And signage advertising Short-Term Rentals should be prohibited, as signage is detrimental to neighborhood character. Our neighbors, my husband and I must drive past this horrible sign every day.



Thank you for respecting the Malibu Mission and Vision Statements by preserving the neighborhood character that is the reason we live in Malibu and the reason people want to visit Malibu.

Sincerely,

Charlotte Frieze Jones

Malibu

Kelsey Pettijohn

Subject: Short-Term Rental Ordinance - City Council Meeting Dec 3

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

RECEIVED
Dec 02 2019
CITY CLERKS OFFICE
CITY OF MALIBU

From: Dean Wenner
Date: December 2, 2019 at 7:05:07 AM PST
To: Heather Glaser <hglaser@malibucity.org>, Kelsey Pettijohn <kpettijohn@malibucity.org>, Karen Farrer <kfarrer@malibucity.org>
Subject: Short-Term Rental Ordinance - City Council Meeting Dec 3

Hello,
Thank you for the mailed notice for the meeting. I was shocked by what some people shared at the last meeting and no one should have to tolerate some of the things that were displayed.

My wife and I have had the good fortune to stay in Malibu many times over the last 10+ years and we have spent a lot of time all over the California coastline. I am an engineer, am responsible for engineering and construction of industrial projects and have had the good fortune of doing projects in El Segundo, Torrance and Martinez, California. After watching for a number of years, in August we purchased a property in the Big Rock area of Malibu. We love it and have planned on rentals supplementing our income to make such a purchase a reality. We will retire in Malibu and look forward to that happening in the not too distant future.

I'm unable to attend the Dec 3 meeting. However I do wish to submit comments of both a general and detailed nature.

I've read both Ordinance No. 458 and Resolution No. 19-53. It's apparent city staff has spent a fair amount of time on this matter and I hope my comments are taken constructively. I write this as I support taking action to improve the community however I see a level of detail, intent, and action that is making this too complex to take root, be effective, and meet the objective.

In general, the action to adopt the Ordinance is premature and will not stand up to a legal challenge. This will diminish the efforts to stop those acting poorly in defiance and disrespect of their neighbors and the community. There are aspects of the draft ordinance that are more restrictive than needed or fair to compliant residents to meet objectives and relying on the severability section will not be effective. In prior correspondence the California Coastal Commission made it clear that regulation in the coastal zone must occur within the context of the Local Coastal Program and/or be authorized pursuant to a coastal development permit. I believe Mr. Peak understands this well as he was the lone negative vote in the last City Council Meeting and I can see from tenure that he was the only council member in place as far back as 2016 in regard to some of the correspondence. While others looked puzzled by his vote it was clear to me he wanted to say more but chose not to do so in the public forum as it could help the bad actors and deflate the hopes and dreams of the good people impacted by the bad actors. I applaud the City Council for being motivated to help and take action but the City should not proceed knowing that adoption of the Ordinance against the written advice/direction of the CCP and not fulfilling the LCP and CDP requirements is essentially an unlawful action in itself and not consistent with City

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Values. It simply injects a change of use and adopting this in this manner could very well hurt the best of intent within the effort underway.

I have several comments on the draft ordinance but instead of redlining the document I offer the following:

- The document has grown significantly from its' previous draft and I perceive what is a well-intended action to create an enforcement mechanism to address bad actors has grown into an exercise of "what-if" scenarios and an emotional draw toward home-sharing and ultimately a ban on rentals. I am supportive of correcting the behavior of bad actors but am not in favor of a more restrictive ordinance that penalizes those that are acting well.
- Previous research data within the City's report indicates a small percentage of properties (somewhere between 30-50% I recall) meet the criteria for OWTS let alone other aspects. As the draft ordinance has grown with requirements it will discourage people from applying.
- This document is vague in regard to City Manager approvals. As written in multiple areas, permits could be unreasonably withheld even with all other aspects complied with which is unfair. This infers that following all the criteria could still result in not obtaining a permit which will discourage people from applying. Please advise if this is indeed the intent of the text.
- More strict permit requirements for non-primary and primary residents is unfair and discriminatory. Primary and non-primary should not be treated differently. The bad actors, it is apparent they are non-primary residents or Corporations, should simply be dealt with instead of penalizing good residents.
- Requiring all offsite on-street parking via special event permit is unreasonable and will discourage people from applying. The number of house occupants and special events are already defined. Adding additional and conflicting requirements will discourage people from applying and lead to further lack of enforcement.
- The section on enforcement, violations and penalties adds administrative action. There are actions under current code that are not enforced so it is not a deterrent to add more. My perception is that this was added to push people to apply but the "flavor" of the document will not change the behavior of the current offenders and unfairly penalizes the respectful citizens that are compliant today.

We have a character, behavioral, and accountability problem. Additional and more restrictive regulation will not fix it. In fact, I would forecast that this new regulation will seed more non-compliance, reduce City revenues, and not move the needle on enforcement in regard to a very small part of the community which is the main objective of all this. It is not in the best interest of the community at this time. We need action that will result in improved behavior, increased accountability, and optimized revenue for the city and its residents to prosper. I hope this has come across in a positive manner and I hope my comments will lead to different action.

I know it tests one's patience when people object and offer no ideas for solution so I offer the following: I support developing reasonable and balanced regulation that is geared to address the specific issues in our community to allow for vacation rentals, target and resolve current issues and problems, and balance various viewpoints and interests. I do think this is possible. With the number of properties enrolled in the ToT process I know it's possible. We need an effort to keep regulation more simple and enforceable while supplementing such legislation with a collaboration amongst the Owners/Property Managers with the City to implement another simple plan to the satisfaction of all law and code abiding residents. In fact, this can and should be done without any additional regulation at this time:

1. Form an Association of Property Managers/Owners with a sound and motivated leader to champion the effort
    a. Membership starting with the ToT list
2. Use a registration form which includes the names and ages of all guests and vehicle information

3. Use a common guest code of conduct which is sent with each commitment and signed either prior to or at check-in
4. Oversee a professional, uniformed security service which patrols all rental properties and provides:
    a. Off duty, uniformed police officers on call 365 days/year, 24 hours/day
    b. Heightened patrols on weekends, peak weeks/times, holidays, "event" weekends
    c. Random patrols including physical inspection of properties
    d. 24/7 manned telephone number for neighbors to call (can transfer responsibility for the current number handled by the City)
5. Distribute a list of all guest registrations and rented properties to the security service
6. In addition to the permit revenue, implement an Association charge to each rental property
    a. Assessing roughly $50/month or $600/year annual fee funds:
        i. Managing and coordinating the security service
        ii. Publicizing and advertising the association plan
        iii. Interacting with the security service when situations arise with guests or property owner associations
7. The above is a proven plan that would take some effort to implement however non-governmental entities are much more nimble, and less susceptible to legal challenges as action is "in the moment" and direct (delayed action enables the legal and avoidance tactics by offenders)
    a. It is a form of the local community self-managing itself which will be more effective (and has been proven to be so).
    b. With the current level of ToT participants the funding will be fine and get better over time while engaging even more local business, and improving neighborhoods and the community as a whole
    c. Enforcement and "teeth" are the major obstacles being faced today
        i. Additional formal patrols that lack authority to take real action only embolden the offenders
        ii. Funding for additional patrols is hard to obtain – enforcement faces the same issues
        iii. An association motivated to make it right and enabling a security force which understands the nature of vacation rentals as well as the importance of maintaining strong guest relations and equally strong community relations is the differentiator.
        iv. Bottom line…people taking care of people and unlocking the best of all things

These items are consistent with items within the draft ordinance. The main difference is its simplicity in that management of the details is within a non-governmental group that can act differently, be flexible and be more action oriented/responsive. This is not intended to be a swipe at the Council. It is recognition that public/private groups can act in different and more efficient ways to get results. From what I can tell this matter is 4+ years in the making and I believe desired results can be achieved with a different approach.

If the City is open to considering the above items and taking a different tact I am willing to offer my involvement including ideas from another program (above) that was born from similar circumstances and is working in the Galveston, Texas area (beach community south of Houston somewhat similar to Malibu). Thank you for your time and consideration of the above,
Dean Wenner

RECEIVED
Dec 03 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Kelsey Pettijohn

Subject: short term rentals

From: Georgia Goldfarb, MD
Sent: Tuesday, December 3, 2019 4:48 PM
To: Heather Glaser <hglaser@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Skylar Peak <speak@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Rick Mullen <rmullen@malibucity.org>
Subject: short term rentals

Dear Mayor and Councilmembers,
I oppose short-term rentals for condos and apartments and, for homes, if the property owner does not live on the property.

Malibu is a family town and, if these restrictions are not applied, it will devolve into another commercialized venue with the detritus that that brings. Additional monies are not needed to improve quality of life here.

Please, vote against commercialization.

Thank you,

Georgia Goldfarb

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

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Kelsey Pettijohn

RECEIVED
Dec 03 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Subject: STR's

From: JOANNE GARY
Date: December 3, 2019 at 3:52:58 PM PST
To: Karen Farrer <kfarrer@malibucity.org>, jwagner@malibucity.org, rmullen@malibucity.org, mpierson@malibucity.org, Skylar Peak <speak@malibucity.org>
Cc: Michael Lustic, Joey Goodman , Paul Wolf
Subject: STR's

Dear Council members,

By not including the owner on-site provision in the STR ordinance, you are showing a commitment to commercial interests rather than residential property owners who are entitled to live in peace and quiet in a neighborhood with permanent residents and long-term renters. (See City of Malibu policy 15.)

Your proposed change permits commercial property owners in residential neighborhoods, a special interest group, to continue to infiltrate Malibu; our neighborhood issues on Paseo Hidalgo/ Calle Del Barco will remain unchanged.

I urge you to have the courage to stand up to commercial property owners who are turning residential properties into hotels. Consider your legacies and how you as Council members will be remembered.

Sincerely,
Joanne Gary
Joey Goodman
Georgia Goodman
Paul Wolf

Sent from my ipad

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

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Kelsey Pettijohn

RECEIVED
Dec 03 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Subject: Air BNB

From: Judy Villablanca
Sent: Tuesday, December 3, 2019 2:07 PM
To: Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Heather Glaser <hglaser@malibucity.org>; Rick Mullen <rmullen@malibucity.org>
Subject: Air BNB

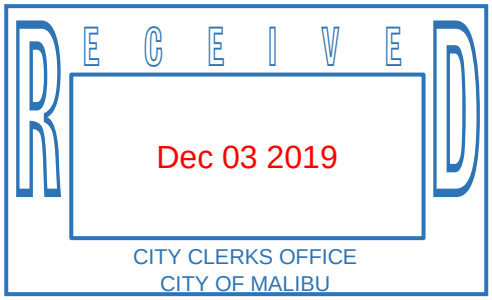
I am unable to come to the meeting tonight, but I implore you to make AirBNB as restricted as you think possible. Malibu needs people who truly live here and care about our community. Our neighborhoods are zoned residential, not commercial, so I do not have sympathy for those trying to run their home as a business. Thanks for all your work!
Judy Villablanca

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Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

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Kelsey Pettijohn

Subject: STR ordinance



-----Original Message-----
From: Karen Arnold <malibukaren1@me.com>
Sent: Tuesday, December 3, 2019 11:18 AM
To: cityclerk <cityclerk@malibucity.org>
Subject: STR ordinance

Hello All,

I would like for the Planning commissioners and City council to consider the fact that there are many in Malibu that do not feel the way Michael Lustig and his followers feel. STR rentals have existed in Malibu for decades with out problems. Why not enforce violations instead of removing 80% of the listings ? As a property owner and tax payer I think that a group of tenants are trying to protect their rights eliminating the rights of actual homeowners in Malibu. I also think that holiday visitors are extremely important to our local business. They are struggling enough right now as it is. Take away 80% of our STR visitors that come to town to spend money and it makes things much worse. Your ZTA that was prepared last year was more than sufficient to address any STR issues. It seems less damaging to the finances of the City also. Please consider the compromise made when the ZTA was presented. Please stick with the ZTA from September 2018.

Thank you ,

Karen Arnold

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Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

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Kelsey Pettijohn

Subject: STR's

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

RECEIVED
Dec 03 2019
CITY CLERKS OFFICE
CITY OF MALIBU

From: Lynn Norton
Sent: Tuesday, December 3, 2019 2:49 PM
To: Mikke Pierson <mpierson@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>
Cc: Rick Mullen <rmullen@malibucity.org>; Skylar Peak <speak@malibucity.org>
Subject: STR's

Hi Jefferson and Mikke,

I can't attend the meeting tonight but I wanted to chime in.

I know both of you supported doing the interim STR ordinance and I wanted to say why I think it could be a bad idea.
You at the city council and everyone weighing in very carefully considered what should ultimately be in our ultimate STR ordinance, primarily to keep it like Santa Monica's.
Then the idea of an interim ordinance was suddenly thrown in without seemingly much consideration about what could be the consequences.

Most importantly I think it could legitimize exactly what we're trying to prevent.

And I don't think we should be investing staff time in it when what we REALLY want to do is put our energy into expediting the REAL STR ordinance. Already 5 weeks have passed since you voted to create the home sharing ordinance. In my opinion THAT ordinance should have been drafted and at the PC by now, and if staff hasn't had time to do that, I ask that you put some funds in to get extra help on it.

I also think the interim ordinance could be used by those who oppose real restrictions, to create inertia against the homesharing ordinance and to obfuscate.

Please do everything you can to make the HOMESHARING ordinance go forward without delay. This is able saving the entire character of Malibu for the long-run. Don't let us get sidetracked.

Thanks!!

Lynn

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Kelsey Pettijohn

Subject: Short term rentals

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

RECEIVED
Dec 02 2019
CITY CLERKS OFFICE
CITY OF MALIBU

From: Melanie Goudzwaard <melanieg@financialseminars.com>
Sent: Sunday, December 1, 2019 4:02:41 PM
To: Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Skylar Peak <speak@malibucity.org>
Subject: Short term rentals

Dear Councilmembers,

I am a former short term rental host and will not be able to attend the meeting on Tuesday, so wanted to communicate my thoughts to you now.

It has come to my attention that my immediate neighbor on Bluewater Road has written to you complaining about the constant noise and disruption coming from my property because of my short term rental. She is apparently unable to sleep and can't open a window or enjoy any peace in her home because of us. The letter describes the nuisance as current and ongoing yet our house burnt to the ground in the Woolsey Fire 13 months ago, and we have not lived on our property since then. It is a pile of dirt, an empty lot, and a very quiet and peaceful place to live next to. The assertions made against us, and in support of their stance on short term rentals are completely false. In three years of hosting our neighbors never once voiced any concerns to us about our little guest house rental, not one. No phone calls, emails, notes in the mailbox, face to face chats, nothing. No complaints have ever been filed with the city by anyone. We have always gone out of our way to be considerate neighbors for the 20 years we lived on Bluewater Road and our neighbors have told us in the past how much they look forward to us rebuilding and coming home once again. The claim of ongoing, continuous disruption to their quality of life is simply untrue, and a quick look at our burnt out property easily confirms this.

I have spoken before in favor of short term rentals and continue to believe they should be allowed, with restrictions, and with the owner living on the property. I now live in a rental home elsewhere in Malibu and am trying to rebuild my own house. I don't know if I will ever host again, or even if we will ever live on our property in the future. The fire changed everything for so many in the community and the future remains very uncertain. I don't have a stake in the short term rental debate anymore but it is completely false for anyone to complain about disruptive noise from our property when it has been an abandoned burnout site for over a year now. We can only imagine the scrutiny we will face once construction begins and our neighbors really have noise to deal with. Our neighbors have never had a more peaceful existence than they do now, with several burnouts in a row next to them, and as the allegations have been made about us I feel compelled to set the record straight.

Thank you,

Melanie Goudzwaard

Sent from my iPad Pro

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/19 Agenda File

RECEIVED
Nov 25 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

Subject: fyi

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/2019
Agenda Item # 1A

---------- Forwarded message ---------
From: **Let's Regulate** <letsregulate@gmail.com>
Date: Sat, Nov 23, 2019, 1:01 PM
Subject: Re: fyi
To: John Mazza
Cc: , Rick Mullen, Mikke Pierson, Candace Brown

All -

Happy Saturday and thanks John.

I've said two things from the beginning, 1.) this is the biggest cock-up in housing the world has ever seen, but people have difficulty recognizing it because its never happened before. And, 2.) the issue of nuisances is merely symptomatic of a structural failure in the City's ability to enforce its existing laws.

It's just a fact that this industry and its culture was built upon incentivizing moral disengagement and inciting a willful denial of existing laws. This is evidenced by every other City that has passed regulation. Even with the best written laws, the hosts will always refuse to comply and challenge the City to enforce.

In effect, the lack of transparency and inability to reconcile tax remittance cedes the City's tax authority and makes enforcement excessively burdensome. The VTC deal and the TOT from STRs are toxic, and result in the usurpation of the City's police powers and sovereignty.

The SM HSO is the current gold standard of ordinances. Santa Monica updated their HSO September 29, 2019, to close loopholes due to enforcement problems. This regulation works, but only when there's a will in the City to "hard" enforce.

Anything less means more problems and exhaustive five hour hearings about peoples feelings and greed forever.

I read the agenda and revised draft yesterday. Unfortunately the Staff is still not on board for regulation or enforcement. You voted down the September 26, 2018 draft last time, and it's worse this time.

The problems are two fold: 1.) This is still Airbnb's preferred draft that misleads Council into legalizing everything without the mechanical provisions for enforcement. And 2.) if you pass this an interim law to be superseded by a version of the SM HSO, you're actually creating a "taking" which causes a much bigger problem to be solved later.

The residents, PC and Council have shut this thing down five times. But shutting down bad drafts every time without doing it right is actually a win for Airbnb.

Don't fall for it again. Council is the boss, you have the guidance of the City Charter, the 9th Circuit and the Constitution on your side. I will prepare another email this week detailing the exact provisions needed from the SM HSO to make it work.

The clock is running down. If you fail to regain control from staff on December 3rd, you're leaving it for the next council and that would be tragic.

Good thinking is hard to do at the end of 4 hours of emotive testimony, the proper way is to study and know **exactly** what is necessary before the hearing.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/2019 Agenda File

Best,

ML

PS - Here are some Constitutional readings on Police Powers and the subsequent adjudications:

Grant of Legislative Rights and Police Powers

In the United States cities are granted Charters by the State that give them Constitutional Rights to pass zoning laws and regulations with the "Police Powers" to enforce them.

In 1851 *Commonwealth v. Alger**[1]*** was decided by the Supreme Judicial Court of Massachusetts, the majority opinion was written by Justice Shaw helped define the difference "police powers" and "eminent domain." Further adjudications Mugler vs. Kansas and Pennsylvania Coal v. Mahon helped to clarify the issues of "regulatory takings" and whether or not compensation for losses was due.

"In California, the powers of the cities are set forth, in the main, in two constitutional provisions: Article 11, section 7, which describes the power of all cities, and Article 11, section 5, which embodies the principle that cities created pursuant to a charter have the ability to override general state laws with which they conflict as to any subject which can be classified as a municipal affair."[2]

Section 5 (a) It shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. City charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs shall supersede all laws inconsistent therewith.[3]

Section 7 A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.[4]

The police power granted by the Constitution is **"the power of local governments to legislate for the general welfare."** (Pleasant Hill Bayshore Disposal, Inc. v. Chip-It Recycling, Inc. (2001) 91 Cal.App.4th 678, 689.) **"The police power is considered so important that it is deemed an inherent attribute of political sovereignty."** (Id at p. 690.) *Cities have broad powers.* (Sunset Amusement Co. v. Board of Police Comm'rs (1982) 7 Cal.3d 64, 72.)

The Police Power of a City is Both Broad and Elastic.

"In its inception the police power was closely concerned with the preservation of the public peace, safety, morals, and health without specific regard for "the general welfare" The increasing complexity of our civilization and institutions later caused cases wherein the promotion of the public welfare was held by courts to be a legitimate object for the exercise of police power. ***As our civic life has developed, so has the definition of "public welfare" until it has been held to embrace regulations "to promote the economic welfare, public convenience and general prosperity of the community".*** (Miller v. City of Los Angeles (1925) 195 Cal. 477, 485 [citations omitted].)

The Miller court went on to explain that the police power is read to keep up with the growth of knowledge and ***"to meet existing conditions of modern life and thereby keep pace with the social, economic, moral and intellectual evolution of the human race."*** **(Id.)"[5]**

[1] https://en.wikipedia.org/wiki/Commonwealth_v._Alger

[2] https://www.law.berkeley.edu/files/Albuquerque1_-_Constitutional_Powers_of_Cities-MLI_Feb_8_2013.pdf

[3]https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CONS&article=XI

[4]https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=CONS&article=XI

[5] https://www.law.berkeley.edu/files/Albuquerque1_-_Constitutional_Powers_of_Cities-MLI_Feb_8_2013.pdf

On Nov 23, 2019, at 11:30 AM, John Mazza wrote:

fyi

https://www.cpexecutive.com/post/report-short-term-rentals-costing-states-millions/

JM

RECEIVED
Nov 25 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

Subject: Airbnb Queried by Congress Over Listings that Violate Local Laws

From: Let's Regulate <letsregulate@gmail.com>
Sent: Saturday, November 23, 2019 7:51 PM
To: Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>
Cc: Steve Uhring; Kraig Hill; John Mazza; Chris Marx; Sharon Barovsky; ; Oona Khan; Jeff Follert; Richard Lawrence; E Barry Haldeman; Beatrix Z; Bill Sampson; Lucille Keller
Subject: Airbnb Queried by Congress Over Listings that Violate Local Laws

City Council -

FYI - Please be aware.

Airbnb Queried by Congress Over Listings that Violate Local Laws

https://www.bloomberg.com/news/articles/2019-11-22/airbnb-queried-by-congress-over-listings-that-violate-local-laws

Attached is the letter sent to Airbnb last week by six members of Congress.

Michael Lustig
Let's Regulate

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/2019
Agenda Item # 1A

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/2019 Agenda File

Congress of the United States
Washington, DC 20515

November 21, 2019

Brian Chesky, CEO
Airbnb, Inc.
999 Brannan St.
San Francisco, CA 94103

Dear Mr. Chesky:

We write to express our concern following numerous media reports detailing instances of "hosts" abusing the Airbnb online platform to list short-term rentals out of compliance with local law, as well as Airbnb's own policies. While we understand that you have announced a number of impending changes, we are concerned about the efficacy of the announced changes, as well as when they will go into effect. **Therefore, we request a briefing within the next 2 weeks to answer the questions detailed below.**

We are particularly interested in determining the nature of your relationship with "hosts" who create short-term rental listings on your company's online platform. Despite Airbnb's stated "One Host, One Home" policy, media reports have raised concerns about the proliferation of limited liability corporations on your platform listing units for rent. For example, listings by an LLC, out of compliance with your company's stated policies, were so common that one operation in New York City generated revenues of nearly $21 million in 3 years.[1]

Deceptive and misleading listings have also led to customers being scammed by "hosts" who abuse Airbnb's cancellation policies to trick guests into unsuitable housing conditions for monetary gain.[2] While some of these fake "hosts" may indeed carry legitimate listings, media reports suggest that the lax policies on your platform have created an environment where guests easily become unwittingly exposed to scammers.

We are confident you agree with us that these reports are extremely disconcerting. This is why we hope to work with you to resolve our concerns expeditiously. We would appreciate a meeting with you to answer the following questions:

---

[1] "New York Empire of Illegal Airbnb Rentals Booked 75,000 Guests, Suit Says," NY Times. Available: https://www.nytimes.com/2019/01/14/nyregion/airbnb-illegal-brokers-real-estate.html?module=inline

[2] "I Accidentally Uncovered a Nationwide Scam on Airbnb," Vice. Available: https://www.vice.com/en_us/article/43k7z3/nationwide-fake-host-scam-on-airbnb

PRINTED ON RECYCLED PAPER

Authenticity of "hosts"

1. While we appreciate that you will now engage in efforts to verify the veracity of host identities can you tell us what or who Airbnb considers a "host" on its platform? For example, would a real estate company (or LLC) be consistent with what Airbnb considers a "host"?
2. Please provide us an overview of how Airbnb currently vets hosts.
    a. Please also detail how this will change in the future to ensure the authenticity of hosts on your platform.
    b. When will these changes take place?
3. Will you begin to require government identification from all hosts and guests, so that the results of criminal background checks that Airbnb runs can be relied upon?
4. Subsequently, will you remove listings of hosts who fail to provide sufficient information to conduct such checks?
5. Please list the services that Airbnb offers hosts when they sign up to join the platform.
    a. Does Airbnb provide new hosts tips on how to make listings more appealing to potential renters?
    b. Is there required training that hosts must complete in order to become a member of your online platform community? What about guests?

Authenticity of short-term listings

6. We appreciate that you will now engage in efforts to verify the veracity of photos on rental listings. Can you tell us how often Airbnb will run a compliance check on each new listing?
7. How often does Airbnb currently check existing rental listings to ensure compliance with Airbnb's stated policies, if at all?
8. How many listings did Airbnb find out of compliance with platform policies in 2019? In 2018? Out of these, how many did Airbnb take down in 2019? 2018?
9. According to your new proposal, can you please elaborate on how you intend to verify that units meet "basic safety protocol[s]?" Will this entail a physical inspection?
10. How will you be conveying to consumers a certification of units verified to be "accurate[ly]" listed and safe?
    a. Accordingly, how much responsibility will Airbnb take when units fail to meet your standards?
    b. What sort of compensation can guests who are subject to fraud, deception, discrimination or other failings expect to receive?
11. Do you have any plans to take down listings of units that fail to meet your standards, or will they continue to be available with a disclaimer? If so, will you pledge to make that disclaimer prominent and visible to consumers at first click in the search process, in advance of finalizing reservations?
12. Can you articulate the criteria to be used in identifying "high-risk reservations?" Do the algorithmic factors include considerations related to age, race, gender, other personal traits, and/or neighborhood demographics?

While we appreciate that you have frequently stated that Airbnb has a "zero tolerance" policy with respect to these types of host behaviors, it also seems clear that you have failed to authenticate host

identities in a way that would prevent bad actors from continuing to rent through your platform under false identities after being banned. We look forward to working with you to resolve the outstanding issues we outlined above.

Sincerely,

Bonnie Watson Coleman
Member of Congress

Barbara Lee
Member of Congress

Robin L. Kelly
Member of Congress

G. K. Butterfield
Member of Congress

Emanuel Cleaver, II
Member of Congress

Yvette D. Clarke
Member of Congress

RECEIVED
Nov 27 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

From: Michael Lustig <michael@letsregulate.com>
Sent: Wednesday, November 27, 2019 3:30 PM
To: Heather Glaser
Cc: Mikke Pierson; Skylar Peak; Jefferson Wagner; Karen Farrer; Rick Mullen
Subject: STRS / SM HSO Background Info
Attachments: 2019-09-10 PowerPoint.pdf; SM Home Sharing Ord - Sept_29_2019.pdf; 2019-09-10 Staff Report.pdf; SMHSO_Study_Guide_Malibu_Rules_HSO .xlsx

Heather -

Attached below are reference materials that I have or will discuss with Council prior to the December 3rd which includes the most up to date revision of the Santa Monica HSO, the SM staff report, SM powerpoint and the document I use to look at in consideration of what the Malibu Rules could be.

Please include in the public record.

Thank you.

Michael Lustig

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/2019
Agenda Item # 1A

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/2019 Agenda File


City Council
September 10, 2019
AMENDMENTS TO ORDINANCE TO STRENGTHEN REGULATION OF HOME-SHARING
Google

Staff Recommendations

1. Introduce for first reading proposed amendments to Home-Sharing Ordinance

2. Pass a resolution creating and establishing regulatory permit fee for initial and renewal home-sharing applications

Prior Council Action

- May 2015: Ordinance 2484
  - Allowed home-sharing
  - Clarified long-standing prohibition of vacation rentals
- January 2017: Ordinance 2535
  - Revised certain definitions
  - Limited obligations of hosting platforms
- June 2017: Ordinance 2547
  - Accessory dwelling units permitted after March 2017 are separate dwelling units for home-sharing

Purpose of Home-Sharing Ordinance

- Allow residents to supplement income through home-sharing
- Provide home-sharing visitors with affordable accommodations
- Preserve permanent housing stock for residents
- Avoid converting residences to de facto hotels and hostels
- Maintain quality and character of residential neighborhoods

Enforcement Successes

- Returned 334 vacation rental units to permanent residential market
  - E.g., successful prosecution against landlord converting multiple apartment units to vacation rentals
- Enforcement of 235 home-sharing violations yielded $100,000 in fines last year
- Collection of approximately $2.2 million in transient occupancy taxes in last fiscal year
- Ninth Circuit upheld Home-Share Ordinance against challenge by hosting platforms



Enforcement Challenges

- Over 30% of 466 licensed home-share hosts are being investigated for operating illegal vacation rentals
- Conversion of newly purchased 5-bedroom single-family residence to de facto 18 to 36-person hostel
  - Host in compliance with almost all requirements of Home-Sharing Ordinance
  - But host violated Building & Fire Code occupancy limitations
  - Other proposed and existing home-shares have a similar business model
- Listings by “superhosts” advertising home-shares for multiple residences

Proposed Amendments

Concern: No prohibition against "hired hosts"

Solution:

- Require host to be a natural person and either:
  - The owner or
  - Long-term resident who has lived in unit at least 12 months and will be living there at least 12 months after submitting home-share application
- Require two forms of proof of primary residence

Proposed Amendments

Concern: No prohibition on booking or renting to multiple different groups at a time

Solution:

- Prohibit a host from booking to more than one group at a time on any given date
- Limit host to posting one listing per home-share on each hosting platform or other media outlet
- Require host to include in advertisements the limitation on group bookings

Proposed Amendments

Concern: No express occupancy restriction or limitation on number of visitor vehicles

Solution:

- Limit occupancy (including host, all other eligible residents, and visitors) to the lesser of:
  - 10 persons
  - One person per 200 square feet of the dwelling unit
  - Two persons per bedroom rented (excluding minor children)
- Limit visitor vehicles to no more than:
  - One vehicle per bedroom rented or
  - Two vehicles if home-share is in preferential parking zone
- Require host to include in advertisements occupancy and visitor parking limitations

Proposed Amendments

Concerns: Clarify requirements that host lives on site and that each host may only operate one home-share

Solution:

- Clarify restriction on a person acting as a host for more than one home-share
- Clarify that the home-share must occur in primary residence of host
- Clarify that the host must live on site of home-share
- Clarify requirement that host must include in advertisements that host lives on site and will be present throughout stay
- Add definitions of “primary residence” and “lives on site” to Ordinance

Proposed Amendments

Concern: No requirement that home-sharing permit application be renewed or updated

Solution:

- Establish a home-sharing permit process
- Require host to annually renew home-sharing permit as well as business license
- Require host to amend home-sharing permit application within 30 days of any material change
- Establish by resolution a regulatory permit fee:
  - $100 for initial application
  - $50 for annual renewal

Proposed Amendments

Concern: No insurance requirement

Solution:

- Require host to have insurance by either:
  - Maintaining liability insurance to cover home-sharing with minimum limits of $500,000 or
  - Conducting each home-sharing transaction on hosting platform that offers equal or greater coverage
- Require host to provide proof of insurance with home-sharing application and renewal

Proposed Amendments

Concerns: No express requirement of basic health and safety features and no express reference to noise restrictions

Solution:

- Require host to ensure that basic health and safety feature like fire extinguishers, smoke detectors, and carbon monoxide detectors are in home-share
- Expressly require host to comply with noise limitations in SMMC Chapter 4.12

Other Proposed Amendments

- Increase the maximum fines for infractions and misdemeanors:
  - $750 for infractions
  - $1,000 for misdemeanors
- Note: Increase in administrative penalties will be coming to Council on September 24

Other Considerations Not in Proposed Amendments

- Require long-term resident hosts to provide proof that owner/landlord consents to home-share
- Prohibit home-sharing in rent-controlled units
- Require 6-month long-term residency requirement instead of 12 months
- Require hosts to distribute guest code of conduct
- Increase permit fee to be closer to actual costs incurred by staff in reviewing permit applications
- Revocation of permits and renewals after code violations (to be addressed in admin regulations)

City of Santa Monica®

City Council Report

City Council Meeting: September 10, 2019
Agenda Item: 7.D

To: Mayor and City Council

From: David Martin, Director, Code Enforcement

Subject: Introduction and First Reading of an Ordinance Amending Chapter 6.20 to Strengthen Regulation of Home-sharing

Recommended Action

Staff recommends: (1) that the City Council introduce for first reading the attached proposed amendments to Chapter 6.20 of the Santa Monica Municipal Code to strengthen the regulation of home-sharing within Santa Monica; and (2) that the City Council pass a resolution creating and establishing a regulatory permit fee for the initial and renewal applications for participation in the home-sharing program.

Executive Summary

In 2015, the City of Santa Monica adopted landmark legislation to regulate the growth of vacation rentals promoted by online applications. Given the attractiveness of our community as a destination for visitors and the adverse impact of residential properties being used as makeshift hotels, the Council adopted strict rules and established mechanisms for enforcement.

At its August 27, 2019 meeting, Council directed staff to return with proposed revisions to Santa Monica's Home-Sharing Ordinance (Santa Monica Municipal Code Chapter 6.20) to strengthen it based on lessons learned since its inception, including, for example, strengthening requirements that home-share hosts be true residents, limiting the number of home-shares that any one property owner (person or entity) can operate in the City, and limiting the numbers of guests per room and/or dwelling. In response, staff has reviewed the Home-Sharing Ordinance and proposes the attached amendments to the ordinance to include additional requirements intended to ensure that home-sharing activity is not used to convert needed permanent housing into de facto hostels or hotels and to improve the City's ability to enforce its home-sharing law.

Background

On May 12, 2015, Council adopted Ordinance 2484(CCS) (**Attachment A**) to clarify the long-standing prohibition of vacation rentals and to allow and impose regulations on home-sharing. On January 24, 2017, Council adopted Ordinance 2535(CCS) (**Attachment B**) to amend the Home-Sharing Ordinance to clarify certain definitions and, in response to portions of the ordinance challenged by home-sharing platforms, to limit the obligations imposed on those platforms. On June 27, 2017, Council adopted Ordinance 2547 (CCS) (**Attachment C**), to amend the Home-Sharing Ordinance to treat accessory dwelling units that received building permits on or after March 31, 2017 as separate dwelling units for the purpose of defining home-sharing activity.

The Home-Sharing Ordinance currently defines a prohibited vacation rental as the rental of any dwelling unit, in whole or in part, for a period of 30 consecutive days or less, without any of the unit's primary residents living on site, in the dwelling unit, throughout any visitor's stay. The ordinance defines permitted home-sharing as an activity whereby residents host visitors in their homes, for compensation, for periods of 30 consecutive days or less, while at least one of the dwelling unit's primary residents lives on-site, in the dwelling unit, throughout the visitors' stay. The ordinance defines a host as any person who is an owner, lessee, or sub-lessee of a residential property or unit offered for use as a home-share. For a home-share to comply with the ordinance, the host must, among other things: obtain and maintain a City business license authorizing home-sharing activity; collect and remit Transient Occupancy Tax to the City; comply with all applicable laws, including all health, safety, building, fire protection, and rent control laws; and comply with regulations promulgated pursuant to the ordinance. The most recent version of the regulations authorized by the ordinance were promulgated effective May 29, 2019. (**Attachment D**.)

As reflected in the recitals to each of the ordinances, Council's intent in permitting regulated home-sharing while prohibiting vacation rentals was to strike a balance: allowing residents to supplement their income through home-sharing and providing home-share visitors with potentially more affordable accommodations, while deterring

landlords from evading rent control laws, evicting tenants, and converting residential units into de facto hostels or hotels, thus removing needed permanent housing from the market while at the same time changing the character of and undermining community ties in residential neighborhoods.

Since the original ordinance was adopted, staff has had success in returning 334 vacation rental units to the permanent residential market as a result of enforcement action. Thus, for example, two Los Angeles Superior Courts have upheld the City's enforcement actions against a landlord who attempted to engage in vacation rentals of multiple units within a single Santa Monica residential building. *See Diane Hayek v. City of Santa Monica*, Los Angeles Superior Court No. BS170950 (Aug. 19, 2019 Judgment incorporating decision issued July 23, 2019); *Diane Hayek v. City of Santa Monica*, Los Angeles Superior Court No. 17STLC02007 (May 30, 2018 Statement of Decision).

The City Attorney's Office has also been successful in defending the Home-Sharing Ordinance against legal challenges brought by online platforms Airbnb, Inc. and Homeaway.com.

The lucrative nature of the vacation-rental business, however, has meant that some property owners and tenants have found creative ways to circumvent the law and take advantage of loopholes. For example, recently, several bedrooms in a five-bedroom single family residence were converted into bunkrooms with multiple beds, and the host (who also was identified as the host in online reviews for another home-share in Santa Monica) then listed the residence multiple times on a hosting platform, advertising 18 double beds (36 potential spaces) available on a nightly basis. The result was significant visitor traffic that led to trash, noise, and other complaints from neighbors. The host was complying with almost all of the requirements of the Home-Sharing Ordinance, which does not contain an express cap on the number of visitors per bedroom or dwelling unit, does not prohibit the use of hired hosts, and does not prohibit renting a home-share to multiple different groups at a time. The host, however, was not complying with Fire Code requirements (incorporated by reference in the home-sharing ordinance), which generally limit this type of residential property to a maximum

occupancy (including both the host and visitors) of no more than 1 person per 200 square feet. The Fire Marshall issued a Compliance Order pursuant to the current Fire Code directing the host to immediately reduce the maximum possible total number of occupants (guests and permanent residents) staying at the residence at any one time to 14. In addition, there are several Airbnb "superhosts" who have listed multiple entire apartment units in Santa Monica for short-term rental without either specifying that the host will be present throughout the stay or including the required business license number, in contravention of the home-sharing regulations.

Past Council Actions

Meeting Date	Description
06/12/15 (Attachment A)	Ordinance 2484 – Home-sharing Ordinance
01/24/17 (Attachment B)	Ordinance 2535 – Home-sharing Ordinance update; amend definitions, limit obligations on hosting platforms
06/27/17 (Attachment C)	Ordinance 2547 – Home-sharing Ordinance update; treatment of accessory dwelling units

Discussion

Re-examination of the Home-Sharing Ordinance in light of the recent incident described above and others has revealed gaps in the Home-Sharing Ordinance that are being exploited to convert needed permanent housing into de facto hostels and hotels. To address these gaps, staff recommends the following changes to the home-sharing ordinance as set forth in the proposed amended Ordinance (**Attachment E**):

1. *Strengthen the residency requirements for home-sharing licenses.*

Approximately 30% of the 466 licensed home-share hosts are being investigated for operating vacation rental businesses under the guise of home-sharing. Although the home-sharing regulations prohibit one host from obtaining more than one home-sharing license, some hosts have obtained multiple home-sharing licenses by enlisting others to obtain them in their names. In addition, the current ordinance's definitions of "host" and "home-sharing" arguably permit individuals, corporations, and partnerships who own or rent residential units to hire individuals on a temporary basis to live on site

and serve as hosts. To help reduce the number of hosts who own multiple properties or rent multiple apartments for the purpose of renting them out as vacation rentals instead of home-shares, and to limit the ability to use temporary hired hosts to qualify a property as home-sharing, staff proposes amendments that will permit hosting only by a natural person who is (a) either an owner or long-term resident (defined as someone who has lived in the unit at least one year and will be living there for at least one additional year at the time a home-share application is submitted); and (b) uses the dwelling unit as his or her primary residence. To assist in enforcing these requirements, staff recommends: (a) moving certain application requirements currently in the home-sharing regulations into the ordinance itself; (b) requiring hosts to amend applications within 30 days of any material change to the information contained in the original application; and (c) requiring more than one proof of primary residency, which may include motor vehicle registration, driver's license, California state identification card, voter registration, income tax return, property tax bill, or utility bill. Home-share applicants are currently required to provide one proof of primary residency in the form of utility bill, bank statement, cable or cell phone bill, or credit card bill. Staff has experienced issues with certain of these proofs being fabricated.

2. *Prohibit a host from serving as the host for more than one home-share at a time and require the host to live on site throughout the visitor's stay.*

The home-sharing regulations provide that "[n]o person or entity may operate more than one Home-Share in the City of Santa Monica." However, the definitions of "home-sharing" and "host" in the current ordinance could be read as permitting a host to operate more than one home-share so long as one of the dwelling unit's "primary residents lives on site." There is no definition of either "primary residents" or "lives on site" in the ordinance. The regulations provide definitions of "lives on site" and "residents," but only require that the host advertise that he or she will be "present" during the visitor's stay. To clarify the applicable requirements, staff proposes amendments to the ordinance that (a) explicitly prohibit a person from acting as the "host" for more than one home-share; (b) require that the home-share occur in the dwelling unit that is the primary residence of the host and that the host lives on site

throughout the visitor's stay; and (c) define "lives on site" and "primary residence" in the ordinance. As with the amendments to the ordinance aimed at strengthening the residency requirements for home-sharing licenses, these amendments will also minimize the risk that individuals will obtain multiple home-sharing licenses by enlisting others to obtain them in their names. To facilitate enforcement, staff recommends that the ordinance require the host to state in any home-share advertisement that the host lives on site and will be present throughout the visitor's stay.

3. Prohibit a host from renting to more than one group of guests at a time.

Staff has found that a number of home-share hosts have opted to reside in a portion of the dwelling unit while renting multiple rooms to several different groups of vacationers at a time. This is not currently prohibited in the language of the home-sharing law, though it results in the same negative impacts to neighborhoods as unlawful vacation rentals, can transform a residential unit into a de facto hostel or hotel, and provides greater incentives to owners and landlords to convert what would be permanent residential units into temporary-use units. To address this, staff recommends amending the ordinance to limit home-sharing to rental under one booking or by one group of visitors for any given date, whether the visitors within the group are related to one another (a family traveling together) or not (a group of friends traveling together). Other jurisdictions (such as the County of Ventura and the City of Los Angeles) include such restrictions in their respective home-share ordinances. (*See* **Attachment F**.) To facilitate enforcement, staff recommends amending the ordinance to: (a) limit hosts to posting one listing for a home-share on each hosting platform or other media outlet; and (b) require hosts to include in any advertisements for the home-share the limitation on renting to one group of visitors on any given date.

4. Limit the Occupancy of Home-Shares and the Number of Visitor Vehicles.

The current ordinance requires hosts to comply with all applicable laws, including all health, safety, building, and fire protection laws, but there is no express limitation in the ordinance or the regulations regarding maximum occupancy. Nor is there any limitation on parking for home-share visitors. The California Building and Fire Codes,

however, limit the occupancy of a residence to, as a general matter, no more than 1 person per 200 square feet. The 2019 Building and Fire Codes, which will be in effect on January 1, 2020, also provide a limitation of no more than 10 occupants where a homeowner rents out guest rooms. Although the current ordinance requires a host to comply with the California Building and Fire Codes, including their occupancy limitations, staff recommends that the ordinance be amended to expressly limit occupancy of any home-share (including the host, all other residents, and all visitors) to the lesser of (a) 10 persons; (b) 1 person per 200 square feet of the dwelling unit; or (c) 2 persons (excluding minor children) per bedroom. This limitation is consistent with the 2019 California Building and Fire Codes (which will take effect January 1, 2020) as well as with regulatory guidance from the Department of Housing and Urban Development that occupancy limitations of 2 persons per bedroom presumptively do not violate the Fair Housing Act's prohibition on discrimination based on familial status. This limitation is also consistent with home-sharing laws and regulations for other jurisdictions. (*See* **Attachment F**.)

In addition, staff recommends that the ordinance be amended to limit visitors' vehicles to either (a) no more than one vehicle per bedroom rented as part of the home-share or (b) if the home-share is located in a preferential parking zone, no more than two vehicles that are required to use the visitor permits available under the Code. Such a restriction will help preserve the character of residential neighborhoods and minimize the impact on neighbors of home-shares.

To assist in enforcing these requirements, staff recommends that the ordinance require that hosts (a) include the maximum permitted occupancy in their application for a business license authorizing home-sharing; and (b) include in any home-sharing advertisement the maximum permitted occupancy and the limitation on the number of visitor vehicles.

5. Require proof of insurance.

Neither the Home-Sharing Ordinance nor the regulations include any insurance requirement for home-shares. This is in contrast to the requirements of a number of

other jurisdictions, such as the Cities of San Francisco and West Hollywood, that require insurance of at least $500,000 or that the home-sharing transactions take place through a hosting platform that offers at least that amount of insurance. (*See* **Attachment F**.) Certain platforms, such as Airbnb offer coverage of up to $1 million against third-party claims of bodily injury or property damage. To the extent the host's homeowner's insurance policy does not provide coverage and the host uses a hosting platform that does not offer insurance coverage, there are a number of third-party insurance companies that now provide home-sharing insurance for a nominal fee, such as Liberty Mutual Fire Insurance Co., Allstate, and Progressive. Staff recommends that the ordinance be amended (a) to require insurance of $500,000 or that the home-sharing transactions take place through a hosting platform that offers equal or greater coverage; and (b) to require that a prospective host provide proof of insurance with the application for a business license authorizing home-sharing.

6. *Create a regulatory permit application fee and require permits to be renewed annually.*

Home-share hosts are required to pay business license tax, and they are responsible for collecting and remitting Transient Occupancy Tax if their hosting platform does not remit it on their behalf. However, there is no permit fee associated with authorization to participate in home-sharing; nor is there any requirement that the permit application be renewed or amended if any material information in the application changes.

There are significant costs associated with the home-sharing program, including the costs of time spent by Code Enforcement and Finance (Business License) staff checking the validity of information provided in a permit application and time spent by code enforcement staff in enforcing against those who violate the home-sharing regulations. Staff recommends that Council establish by resolution a $100 initial permit application fee to be paid by all applicants and a $50 renewal permit application fee to cover at least a minimal portion of the costs of reviewing the home-share applications and the costs of enforcement. This proposed fee is at the lower end of what other jurisdictions impose. (*See* **Attachment F**.) The fee recommended is well below actual costs in order to encourage potential home-sharing applicants to participate in the

home-sharing program and not create any additional incentive for engaging in home-sharing outside the regulated program. The fee would be subject to modification in the master fee resolution considered by Council each fiscal year.

Staff also recommends that (a) the authorization for home-sharing have a limited term and expire on June 30 of the year after the issuance of the business license and (b) any previously issued business licenses authorizing home-sharing expire on June 30 of the year after the effective date of the amended ordinance (i.e., June 30, 2020). Requiring hosts to renew their applications will help ensure that the hosts are in compliance with any amendments to the home-sharing ordinance that went into effect after the business license was originally issued and that permit applications are renewed or amended if any material information in the application changes.

7. *Expressly require basic health and safety features and compliance with the City's Code provisions limiting noise.*

Staff has found that neighbors of home-shares have complained of noise resulting from the home-share. To mitigate this negative impact of home-sharing, staff recommends amending the ordinance to expressly require compliance with the noise limitations set forth in Chapter 4.12 of the Code. In addition, to clarify that hosts are required to maintain basic health and safety features, including fire extinguishers, smoke detectors, and carbon monoxide detectors, staff recommends amending the ordinance to include this requirement.

For the reasons set forth above, staff recommends that Council adopt the attached proposed ordinance (**Attachment E**) amending the City's home-sharing law and the attached proposed resolution (**Attachment G**) setting the initial application and renewal fees for home-sharing permits.

Financial Impacts and Budget Actions

Staff does not expect any significant budget impact related to the report's recommended action. The proposed permit application and renewal fees will offset only a small portion of the costs incurred by Code Enforcement and Finance in reviewing applications and enforcement actions and are recommended to be set at this level to encourage participation in the regulated home-sharing program. If home-sharing were to significantly decrease as the result of the strengthened regulations, there might be a reduction in Transient Occupancy Tax ("TOT") collected and remitted to the City; in the last fiscal year, the City collected approximately $2.2 million in TOT from licensed home-sharing.

Prepared By: Denise Smith, Senior Administrative Analyst

Approved	**Forwarded to Council**
David Martin, Director 9/5/2019	Rick Cole, City Manager 9/5/2019

Attachments:

A. Ordinance 2484
B. Ordinance 2535
C. Ordinance 2547
D. HomeSharing Rules and Regulations
E. PCD - Ordinance - Home-Sharing - 09.10.2019
F. Chart
G. PCD Finance - Resolution - Home-Sharing Permit Fee - 09.10.2019
H. Written Comments
I. PowerPoint Presentation

City Council Meeting: September 24, 2019 Santa Monica, California

ORDINANCE NUMBER_____(CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING AND REVISING CHAPTER 6.20 OF THE SANTA MONICA MUNICIPAL CODE TO STRENGTHEN REGULATION OF HOME-SHARING AND VACATION RENTALS

WHEREAS, a central and significant goal for the City is preservation of its housing stock and preserving the quality and character of residential neighborhoods; and

WHEREAS, Santa Monica places a high value on cohesive and active residential neighborhoods and the diverse population that resides therein; and

WHEREAS, the City must preserve its available housing stock and the character and charm that result, in part, from cultural, ethnic, and economic diversity of its resident population, as a key factor in economic growth; and

WHEREAS, Santa Monica's natural beauty, its charming residential communities, its vibrant commercial quarters and its world-class amenities have drawn visitors from around the United States and around the world; and

WHEREAS, there is within the City a diverse array of short-term rentals for visitors, including, hotels, motels, bed and breakfasts, vacation rentals and home sharing, not all of which are lawful; and

WHEREAS, operations of vacation rentals, where residents rent entire units to visitors and are not present during the visitors' stays, frequently disrupt the quietude and residential character of the neighborhoods and adversely impact the community; and

WHEREAS, home-sharing does not create the same adverse impacts as unsupervised vacation rentals when the home-shares are hosted by the owner or a long-term resident who lives on site and is present to introduce guests to the City's neighborhoods and regulate guests' behavior; and

WHEREAS, while the City recognizes that home-sharing activities can be conducted in harmony with surrounding uses, those activities must be regulated to ensure that the home-sharing activities do not threaten or harm the public health, safety, or general welfare; and

WHEREAS, on May 12, 2015, the City Council adopted Ordinance Number 2484, which added Chapter 6.20 to the Santa Monica Municipal Code and thereby preserved the City's prohibition on vacation rentals, but authorized "home-sharing," whereby residents host visitors in their homes for short periods of stay, for compensation, while the resident host remains present throughout the visitors' stay; and

WHEREAS, on January 24, 2017, the City Council adopted Ordinance Number 2535CCS, which amended Chapter 6.20 to clarify its application to hosting platforms; and

WHEREAS, on June 27, 2017, the City Council adopted Ordinance Number 2547CCS, which further amended Chapter 6.20 to address the use of accessory dwelling units that received their building permits after March 31, 2017 as home-shares; and

WHEREAS, in the time since Chapter 6.20 was first added, the City has issued over 450 business licenses authorizing home-sharing; and

WHEREAS, the City is investigating approximately 30% of the licensed home-share hosts as operating vacation rental businesses under the guise of home-sharing; and

WHEREAS, the City strives to strike a balance between preserving the City's available housing stock, protecting the residential character of neighborhoods, and preventing home-shares from turning into de facto hostels and hotels, while at the same time permitting owners and long-term residents to host guests as part of a home-share; and;

WHEREAS, the costs of regulating and enforcing the requirements of the home-sharing program are significant and should be borne, at least in part, by those benefitting from their participation in the home-sharing program; and

WHEREAS, the City Council now wishes to amend Chapter 6.20 to clarify existing regulations and to implement various public health, safety, and general welfare regulations governing home-sharing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Santa Monica Municipal Code Chapter 6.20 is hereby amended to read as follows:

6.20.010 Definitions.

For purposes of this Chapter, the following words or phrases shall have the following meanings:

(a) **Bedroom.** Any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

(b) **Booking Transaction.** Any reservation or payment service provided by a person who facilitates a home-sharing or vacation rental transaction between a prospective visitor and a host.

(c) **Dwelling Unit.** One or more rooms designed, occupied, or intended for occupancy as separate living quarters, with full cooking, sleeping, and bathroom facilities for the exclusive use of a single household. A dwelling unit includes a single-family residence, and each unit of an apartment, duplex, or multiple dwelling structure designed as a separate habitation for one or more persons, but does not include units located within City-approved hotels, motels, and bed and breakfasts, as defined in section 9.51.030(B)(15). An accessory dwelling unit, as defined by section 9.31.300, that received its building permit on or after March 31, 2017, constitutes a separate dwelling unit for the purpose of this Chapter.

(d) **Eligible Resident**. Any natural person who (1) is either (i) a long-term resident of a dwelling unit or (ii) an owner of a dwelling unit and (2) uses that dwelling unit as his or her primary residence.

(e) **Home-Sharing.** Renting for a period of 30 consecutive days or less, one or more bedrooms in a dwelling unit that is the primary residence of the host, while the host lives on-site, in the dwelling unit, throughout the visitors' stay. A dwelling unit rented out for home-sharing is referred to as a "home-share."

(f) **Host.** Any natural person who is an eligible resident of a dwelling unit offered for use as a home-share.

(g) **Hosting Platform.** A person who participates in the home-sharing or vacation rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

(h) **Lives On Site**. Maintains a physical presence in the dwelling unit, including, but not limited to, sleeping overnight, preparing and eating meals, and engaging in other activities in the dwelling unit, of the type typically maintained by a natural person in the dwelling unit in which he or she is an eligible resident.

(i) **Long-Term Resident.** Any natural person who, as of the date a home-share application is submitted pursuant to Section 6.20.021: (1) has occupied the dwelling unit that is the subject of the home-share application as his or her primary residence for at least the prior 12 months; and (2) has either (i) if the natural person is a tenant, subtenant, lessee, or sublessee, a written rental housing agreement for the dwelling unit for a period of 12 months or more after the date the home-share application is submitted

or (ii) if the natural person is not a tenant, subtenant, lessee, or sublessee, written documentation establishing that the natural person will reside at the dwelling unit for a period of 12 months or more after the date the home-share application is submitted.

(j) **Owner.** Any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

(k) **Person.** Any natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, or organization of any kind.

(l) **Primary Residence.** The usual place of return for housing of an owner or long-term resident as documented by at least two of the following: motor vehicle registration, driver's license, California state identification card, voter registration, income tax return, property tax bill, or a utility bill. A person can only have one primary residence.

(m) **Vacation Rental.** Renting for a period of 30 consecutive days or less any dwelling unit, in whole or in part, for exclusive transient use. Exclusive transient use shall mean that no eligible resident of the dwelling unit lives on-site, in the dwelling unit, throughout any visitor's stay. Rentals of units located within City-approved hotels, motels, and bed and breakfasts shall not be considered vacation rentals.

(n) **Visitor**. A natural person who rents a home-share or vacation rental.

6.20.020 Home-sharing authorization.

(a) Notwithstanding any provision of this Code to the contrary, home-sharing shall be authorized in the City, provided that the host complies with each of the following requirements:

(1) Obtains and maintains at all times a City home-sharing permit issued pursuant to this Chapter and a business license issued pursuant to Chapter 6.04.

(2) Operates the home-sharing activity in compliance with all permit conditions for home-sharing as set forth in Section 6.20.021 and any regulations promulgated pursuant to this Chapter.

(3) Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 6.68 of this Code.

(4) Takes responsibility for and actively prevents any nuisance activities that may take place as a result of home-sharing activities.

(5) Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.

(6) Does not book or rent to more than two groups of visitors for any given date, whether the visitors within the groups are related to one another or not.

(7) Limits the occupancy of the home-share (including the host, all other eligible residents, and all visitors) to the lesser of (i) 10 persons; (ii) one person per 200 square feet of the dwelling unit; or (iii) two persons (excluding minor children) per bedroom.

(8) Limits visitors to (i) no more than one vehicle per bedroom rented as part of the home-share or (ii) if the home-share is located in a preferential parking zone, no more than two vehicles that shall be required to use the visitor permits available under Chapter 3.08 of this Code. A visitor's vehicle may be parked on site, to the extent available, or in legal street parking.

(9) Maintains liability insurance to cover home-sharing with minimum limits of not less than $500,000 or conducts each home-sharing transaction through a hosting platform that provides equal or greater coverage.

(10) Complies with Section 6.21.022 governing advertisements of home-shares.

(11) Complies with all applicable laws, including the noise limitations set forth in Chapter 4.12 of this Code, and all health, safety, building, fire protection, and rent control laws.

(12) Complies with all regulations promulgated pursuant to this Chapter.

(b) All hosts and their respective properties, authorized by the City for home-sharing purposes pursuant to this Section, shall be listed on a registry created by the City and updated periodically by the City. The City shall publish the registry, and a copy shall be sent electronically to any person upon request.

(c) If any provision of this Chapter conflicts with any provision of the Zoning Ordinance codified in Article IX of this Code, the terms of this Chapter shall prevail with respect to interpretation and enforcement of this Chapter.

6.20.021 Home-sharing permit conditions.

(a) **Application required.** To obtain a home-sharing permit for a dwelling unit, a host shall submit an application on a form to be provided by the City and signed by the host under penalty of perjury. The application for the home-sharing permit shall include the following information:

(1) Address of the proposed home-share;

(2) Type of dwelling unit;

(3) Whether the applicant is an owner or long-term resident;

(4) If applicable, proof that the applicant is a long-term resident;

(5) Proof that the proposed home-share is the primary residence of the applicant;

(6) The name and contact information for any other eligible residents of the proposed home-share who will be serving as hosts, together with proof that each identified host is an eligible resident of the proposed home-share;

(7) The square footage of the proposed home-share;

(8) The number of bedrooms in the proposed home-share;

(9) The maximum number of visitors per night, which shall not exceed the maximum permitted in accordance with Section 6.20.020(a)(6);

(10) Proof of insurance;

(11) Certification that the host will comply with all provisions of this Chapter and all regulations promulgated pursuant to this Chapter or be subject to the revocation of his or her home-sharing permit and business license; and

(12) Any other information required by regulations promulgated pursuant to this Chapter.

(b) **Application Fee.** The initial application and each renewal application for a home-sharing permit shall be accompanied by an application fee to be established by resolution by the City Council.

(c) **Duty to Amend Application.** If there are any material changes to the information submitted on a home-sharing permit application, the host shall submit an amended application on a form to be provided by the City and signed by the host under penalty of perjury within 30 days of any such changes. For the purposes of this Section, any change to the information required to be included in a home-sharing permit application by subsection (a) of this Section shall constitute a material change. Failure to submit an amended home-sharing permit application may result in revocation of the home-sharing permit and business license.

(e) **Term of Permit.** Notwithstanding any provision of this Code to the contrary, any home-sharing permit shall be effective for same period as the term of the host's business license.

(f) **Renewal of Permit.** A host may renew his or her home-sharing permit by submitting a completed permit renewal application on a form to be provided by the City and signed by the host under penalty of perjury. The permit renewal application shall include all of the information required by subsection (a) of this Section.

(g) **No Transfer or Assignment**. A home-sharing permit may not be assigned or transferred to any other person.

6.21.022 Advertisements for home-sharing.

(a) The host shall include the following information in any advertisement for home-sharing:

(1) The business license number issued by the City;

(2) That the host lives on site and will be present in the home-share throughout the visitor's stay;

(3) The permitted occupancy of the home-share as specified in the home-sharing permit application;

(4) The permitted number of visitor vehicles, in accordance with Section 6.20.020(a)(8);

(5) That the home-share cannot be booked or rented to more than two groups of visitors for any given date, whether the visitors within the groups are related to one another or not; and

(6) Any other information required by regulations promulgated pursuant to this Chapter.

(b) A host is limited to posting no more than two listings for the home-share on each hosting platform or other media outlet. If a host posts a listing for the home-share on multiple hosting platforms or other media outlets, only two listings may be booked for any given date.

(c) No advertisements regarding the availability of a dwelling unit for home-sharing shall be posted in or on any exterior area of the dwelling unit, any exterior area of any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.

6.20.030 Prohibitions.

(a) No person shall undertake, maintain, authorize, aid, facilitate or advertise any vacation rental or any home-sharing that does not comply with this Chapter. For the purposes of this section only, person does not include a hosting platform.

(b) No host may be the host for more than one home-share.

6.20.050 Hosting platform responsibilities.

(a) Hosting platforms shall be responsible for collecting all applicable TOTs and remitting the same to the City. The hosting platform shall be considered an agent of the host for purposes of TOT collections and remittance responsibilities as set forth in Chapter 6.68 of this Code.

(b) Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each home-sharing and vacation rental listing located in the City, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.

(c) Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry created under Section 6.20.020 subsection (b), at the time the hosting platform receives a fee for the booking transaction.

(d) Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a vacation rental or unregistered home-share, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.

(e) **Safe Harbor.** A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (a), (b), (c), and (d) above, shall be presumed to be in compliance with this Chapter, except that the hosting platform remains responsible for compliance with the administrative subpoena provisions of this Chapter.

(f) The provisions of this Section shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

6.20.080 Regulations.

The City Manager or designee may promulgate regulations, which may include, but are not limited to, permit conditions, reporting requirements, inspection frequencies, enforcement procedures, additional advertising restrictions, disclosure requirements, administrative subpoena procedures or additional insurance requirements, to implement the provisions of this Chapter. No person shall fail to comply with any such regulation.

6.20.090 Fees.

The City Council may establish and amend by resolution all fees and charges as may be necessary to effectuate the purpose of this Chapter, including, but not limited to, the application fee required by Section 6.20.021.

6.20.100 Enforcement.

(a) Any host violating any provision of this Chapter, any person other than a hosting platform who facilitates or attempts to facilitate a violation of this Chapter, or a hosting platform that violates its obligations under Section 6.20.050, shall be guilty of an infraction, which shall be punishable by a fine not exceeding $750, or a misdemeanor,

which shall be punishable by a fine not exceeding $1,000, or by imprisonment in the County Jail for a period not exceeding six months or by both such fine and imprisonment.

(b) Any person convicted of violating any provision of this Chapter in a criminal case or found to be in violation of this Chapter in a civil or administrative case brought by a law enforcement agency shall be ordered to reimburse the City and other participating law enforcement agencies their full investigative costs, pay all back TOTs, and remit all illegally obtained rental revenue to the City so that it may be returned to the home-sharing visitors or used to compensate victims of illegal short-term rental activities.

(c) Any host who violates any provision of this Chapter, any person other than a hosting platform who facilitates or attempts to facilitate a violation of this Chapter, or a hosting platform that violates its obligations under Section 6.20.050, shall be subject to administrative fines and administrative penalties pursuant to Chapters 1.09 and 1.10 of this Code.

(d) Any interested person may seek an injunction or other relief to prevent or remedy violations of this Chapter. The prevailing party in such an action shall be entitled to recover reasonable costs and attorney's fees.

(e) The City may issue and serve administrative subpoenas as necessary to obtain specific information regarding home-sharing and vacation rental listings located in the City, including, but not limited to, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay, to determine whether the home-sharing and vacation rental listings comply with this Chapter. Any subpoena issued pursuant to this section shall not require the production of information sooner than 30 days from the date of service. A

person that has been served with an administrative subpoena may seek judicial review during that 30 day period.

(f) The remedies provided in this Section are not exclusive, and nothing in this Section shall preclude the use or application of any other remedies, penalties or procedures established by law.

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance

shall become effective 30 days from its adoption, and shall apply to all home-shares, including those operating under business licenses obtained prior to the effective date of this Ordinance.

APPROVED AS TO FORM:

_____
LANE DILG
City Attorney

I. Purpose

This Article is adopted pursuant to the City's ***police power*** *to preserve the City's permanent housing stock, balance the economic opportunity created by short-term rentals with the need to maintain a supply of long-term rental housing stock available at a range of prices, reduce any indirect negative effects on the availability of affordable housing that results from the dedication of long-term housing stock to Short-Term Rental use, ensure the sufficient collection of tax revenue, mitigate the disruptive effects that unmonitored short-term rentals can have on neighborhoods, and protect the livability and quality of life of the City's residential neighborhoods.*

6.20.10 Definitions.

For purposes of this Chapter, the following words or phrases shall have the following meanings:

(a) **Bedroom.** Any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

(b) **Booking Transaction.** Any reservation or payment service provided by a person who facilitates a home-sharing or vacation rental transaction between a prospective visitor and a host.

(c) **Dwelling Unit.** One or more rooms designed, occupied, or intended for occupancy as separate living quarters, with full cooking, sleeping, and bathroom facilities for the exclusive use of a single household. A dwelling unit includes a single-family residence, and each unit of an apartment, duplex, or multiple dwelling structure designed as a separate habitation for one or more persons, but does not include units located within City-approved hotels, motels, and bed and breakfasts, as defined in section _____. An accessory dwelling unit, as defined by section _____ that received its building permit on or after _____, constitutes a separate dwelling unit for the purpose of this Chapter.

Designated Operator.

(d) **Eligible Resident**. Any natural person who (1) is either (i) a long-term resident of a dwelling unit or (ii) an owner of a dwelling unit and (2) uses that dwelling unit as his or her primary residence.

(e) **Home-Sharing.** Renting for a period of 30 consecutive days or less, one or more bedrooms in a dwelling unit that is the primary residence of the host, while the host lives on-site, in the dwelling unit, throughout the visitors' stay. A dwelling unit rented out for home-sharing is referred to as a "home-share."

(f) **Host.** Any natural person who is an eligible resident of a dwelling unit offered for use as a home-share.

(g) **Hosting Platform.** A person who participates in the home-sharing or vacation rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

(h) **Lives On Site**. Maintains a physical presence in the dwelling unit, including, but not limited to, sleeping overnight, preparing and eating meals, and engaging in other activities in the dwelling unit, of the type typically maintained by a natural person in the dwelling unit in which he or she is an eligible resident.

(i) **Long-Term Resident.** Any natural person who, as of the date a home- share application is submitted pursuant to Section 6.20.021: (1) has occupied the dwelling unit that is the subject of the home-share application as his or her primary residence for at least the prior 12 months; and (2) has either (i) if the natural person is a tenant, subtenant, lessee, or sublessee, a written rental housing agreement for the dwelling unit for a period of 12 months or more after the date the home-share application is submitted or (ii) if the natural person is not a tenant, subtenant, lessee, or sublessee, written documentation establishing that the natural person will reside at the dwelling unit for a period of 12 months or more after the date the home-share application is submitted

Single Family with Guest House or Up to 2 ADUs

Multifamily Building (Small) 4 and 5 Units or less

Multifamily Building. (Large) 5 units or more

(j) **Owner.** Any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

(k) **Person.** Any natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, or organization of any kind.

(l) **Primary Residence.** The usual place of return for housing of an owner or long-term resident as documented by at least two of the following: motor vehicle registration, driver's license, California state identification card, voter registration, income tax return, property tax bill, or a utility bill. A person can only have one primary residence.

(m) **Vacation Rental.** Renting for a period of 30 consecutive days or less any dwelling unit, in whole or in part, for exclusive transient use. Exclusive transient use shall mean that no eligible resident of the dwelling unit lives on-site, in the dwelling unit, throughout any visitor's stay. Rentals of units located within City-approved hotels, motels, and bed and breakfasts shall not be considered vacation rentals.

(n) **Visitor**. A natural person who rents a home-share or vacation rental.

6.20.20 Home-sharing Authorization.

(a) Notwithstanding any provision of this Code to the contrary, home-sharing shall be authorized in the City, provided that the host complies with each of the following requirements:

(1) Obtains and maintains at all times a City home-sharing permit issued pursuant to this Chapter and *a business license issued pursuant to Chapter 6.04.*

(2) Operates the home-sharing activity in compliance with all permit conditions for home-sharing as set forth in Section 6.20.021 and any regulations promulgated pursuant to this Chapter.

(3) Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 6.68 of this Code.

(4) Takes responsibility for and actively prevents any nuisance activities that may take place as a result of home-sharing activities.

(5) Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.

(6) Does not book or rent to more than two groups of visitors for any given date, whether the visitors within the groups are related to one another or not.

(7) Limits the occupancy of the home-share (including the host, all other eligible residents, and all visitors) to the lesser of (i) 10 persons; (ii) one person per 200 square feet of the dwelling unit; or (iii) two persons (excluding minor children) per bedroom.

(8) Owner is required to a valid OWTS Operating Permit for the property

(9) Limits visitors to (i) no more than one vehicle per bedroom rented as part of the home-share or (ii) if the home-share is located in a preferential parking zone, no more than two vehicles that shall be required to use the visitor permits available under Chapter 3.08 of this Code. A visitor's vehicle may be parked on site, to the extent available, or in legal street parking.

(10) Maintains liability insurance to cover home-sharing with minimum limits of not less than $500,000 or conducts each home-sharing transaction through a hosting platform that provides equal or greater coverage.

(10) Complies with Section 6.21.022 governing advertisements of home- shares.

(11) Complies with all applicable laws, including the noise limitations set forth in *Chapter 4.12* of this Code, and all health, safety, building, fire protection, and rent control laws.

(12) Complies with all regulations promulgated pursuant to this Chapter.

(b) All hosts and their respective properties, authorized by the City for home- sharing purposes pursuant to this Section, shall be listed on a registry created by the City and updated periodically by the City. The City shall publish the registry, and a copy shall be sent electronically to any person upon request.

(c) If any provision of this Chapter conflicts with any provision of the Zoning Ordinance codified in Article IX of this Code, the terms of this Chapter shall prevail with respect to interpretation and enforcement of this Chapter.

6.20.21 Home-sharing permit conditions.

(a) **Application required.** To obtain a home-sharing permit for a dwelling unit, a host shall submit an application on a form to be provided by the City and signed by the host under penalty of perjury. The application for the home-sharing permit shall include the following information:

(1) Address of the proposed home-share;
(2) Type of dwelling unit;
(3) Whether the applicant is an owner or long-term resident;
(4) If applicable, proof that the applicant is a long-term resident;
(5) Proof that the proposed home-share is the primary residence of the applicant;
(6) The name and contact information for any other eligible residents of the proposed home-share who will be serving as hosts, together with proof that each identified host is an eligible resident of the proposed home-share;
(7) The square footage of the proposed home-share;
(8) The number of bedrooms in the proposed home-share;
(9) The maximum number of visitors per night, which shall not exceed the maximum permitted in accordance with Section 6.20.020(a)(6);
(10) Proof of insurance;
(11) Certification that the host will comply with all provisions of this Chapter and all regulations promulgated pursuant to this Chapter or be subject to the revocation of his or her home-sharing permit and business license; and
(12) Any other information required by regulations promulgated pursuant to this Chapter.

(b) **Application Fee.** The initial application and each renewal application for a home-sharing permit shall be accompanied by an application fee to be established by resolution by the City Council.

(c) **Duty to Amend Application.** If there are any material changes to the information submitted on a home-sharing permit application, the host shall submit an amended application on a form to be provided by the City and signed by the host under penalty of perjury within 30 days of any such changes. For the purposes of this Section, any change to the information required to be included in a home-sharing permit application by subsection (a) of this Section shall constitute a material change. Failure to submit an amended home-sharing permit application may result in revocation of the home-sharing permit and business license.

*(e) **Term of Permit.** Notwithstanding any provision of this Code to the contrary, any home-sharing permit shall be effective for same period as the term of the host's business license.*

(f) **Renewal of Permit.** A host may renew his or her home-sharing permit by submitting a completed permit renewal application on a form to be provided by the City and signed by the host under penalty of perjury. The permit renewal application shall include all of the information required by subsection (a) of this Section.

(g) **No Transfer or Assignment**. A home-sharing permit may not be assigned or transferred to any other person.

Permit conditions for Multifamily Buildings

Single Family with up to 2 ADUs limitied to 1
Small Multifamily buildings are limited to 25% or 2 units which ever is greater.
Large Multifamily limited to 25% or 3 units which ever is greater.
(a) Owner is required to designate an operator who lives onsite
(b) Owner is required to comply with all conditions included in the Homesharing Permit Conditions, Advertisements, Prohibitions and other requirements included in this ordinance.

6.21.22 Advertisements for home-sharing.

(a) The host shall include the following information in any advertisement for home-sharing:

(1) The business license number issued by the City;

(2) That the host lives on site and will be present in the home-share throughout the visitor's stay;

(3) The permitted occupancy of the home-share as specified in the home-sharing permit application;

(4) The permitted number of visitor vehicles, in accordance with Section 6.20.020(a)(8);

(5) That the home-share cannot be booked or rented to more than two groups of visitors for any given date, whether the visitors within the groups are related to one another or not; and

(6) Any other information required by regulations promulgated pursuant to this Chapter.

(b) A host is limited to posting no more than two listings for the home-share on each hosting platform or other media outlet. If a host posts a listing for the home-share on multiple hosting platforms or other media outlets, only two listings may be booked for any given date.

(c) No advertisements regarding the availability of a dwelling unit for home- sharing shall be posted in or on any exterior area of the dwelling unit, any exterior area of any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.

6.20.30 Prohibitions.

(a). No person shall undertake, maintain, authorize, aid, facilitate or advertise any vacation rental or any home-sharing that does not comply with this Chapter. For the purposes of this section only, person does not include a hosting platform.

(b) No host may be the host for more than one home-share.

Additional Prohibitions*

Events, parties, and other commercial uses are prohibited during guest use of the short-term rental. No specialevent permit or film permit shall be obtained for an event occurring at dwelling unit during any period
of guest occupancy.
Discriminating against any Guest, or potential Guest, because of race, color, sex, gender identity, age, religion, disability nationa origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income.

6.20.50 Hosting platform responsibilities.

(a) Hosting platforms shall be responsible for collecting all applicable TOTs and remitting the same to the City. The hosting platform shall be considered an agent of the host for purposes of TOT collections and remittance responsibilities as set forth in Chapter 6.68 of this Code.

Additional Hosting Platform Requirement*
(b) All Platforms shall ensure that any portal, listing service, or website under its ownership or control that facilitates booking transactions in Malibu complies with the terms and requirements of this Article.

(c) Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each home-sharing and vacation rental listing located in the City, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.
(d) Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry created under Section 6.20.020 subsection (b), at the time the hosting platform receives a fee for the booking transaction.
(e) Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a vacation rental or unregistered home-share, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.
(f) **Safe Harbor.** A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (a), (b), (c), and (d) above, shall be presumed to be in compliance with this Chapter, except that the hosting platform remains responsible for compliance with the administrative subpoena provisions of this Chapter.
(g) The provisions of this Section shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).
(h) Platforms must take down non-permitted or non-compliant listings within 7 days upon written notification by the City.

6.20.080 Regulations.

The City Manager or designee may promulgate regulations, which may include, but are not limited to, permit conditions, reporting requirements, inspection frequencies, enforcement procedures, additional advertising restrictions, disclosure requirements, administrative subpoena procedures or additional insurance requirements, to implement the provisions of this Chapter. No person shall fail to comply with any such regulation.

6.20.090 Fees.

The City Council may establish and amend by resolution all fees and charges as may be necessary to effectuate the purpose of this Chapter, including, but not limited to, the application fee required by Section 6.20.021.

6.20.100 Enforcement.

(a) Any host violating any provision of this Chapter, any person other than a hosting platform who facilitates or attempts to facilitate a violation of this Chapter, or a hosting platform that violates its obligations under Section 6.20.050, shall be guilty of an infraction, which shall be punishable by a fine not exceeding $1000, or a misdemeanor, which shall be punishable by a fine not exceeding $1,000, or by imprisonment in the County Jail for a period not exceeding six months or by both such fine and imprisonment.

(b) Any person convicted of violating any provision of this Chapter in a criminal case or found to be in violation of this Chapter in a civil or administrative case brought by a law enforcement agency shall be ordered to reimburse the City and other participating law enforcement agencies their full investigative costs, pay all back TOTs, and remit all illegally obtained rental revenue to the City so that it may be returned to the home-sharing visitors or used to compensate victims of illegal short-term rental activities.

(c) Any host who violates any provision of this Chapter, any person other than a hosting platform who facilitates or attempts to facilitate a violation of this Chapter, or a hosting platform that violates its obligations under Section 6.20.050, shall be subject to administrative fines and administrative penalties pursuant to Chapters 1.09 and 1.10 of this Code.

(d) Any interested person may seek an injunction or other relief to prevent or remedy violations of this Chapter. The prevailing party in such an action shall be entitled to recover reasonable costs and attorney's fees.

(e) The City may issue and serve administrative subpoenas as necessary to obtain specific information regarding home-sharing and vacation rental listings located in the City, including, but not limited to, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay, to determine whether the home-sharing and vacation rental listings comply with this Chapter. Any subpoena issued pursuant to this section shall not require the production of information sooner than 30 days from the date of service. A person that has been served with an administrative subpoena may seek judicial review during that 30 day period.

(f) The remedies provided in this Section are not exclusive, and nothing in this Section shall preclude the use or application of any other remedies, penalties or procedures established by law.

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 120 days from its adoption, and shall apply to all home-shares, including those operating under business licenses obtained prior to the effective date of this Ordinance.

-

*Add this specifically to include delcararion of the City's **Police Powers**

Conform to Malibu Code

The owner of a single family dwelling may designate a 3rd party operator to be onsite when he or she is out of town. Or The owner of a Multifamily Building who does not live onsite must designate (1) operator who resides full time on site.

add desginated operator who lives on site while the owner is away.

Allowed one

1 or 2

3

(1). Obtains and maintains at all times a City home-sharing permit issued pursuant to this Chapter

Conform to Malibu Code

*Addition of OWTS requirement

Remove parking permit language and conform to Malibu Code

Conform to Malibu Code

Conform to Malibu Code

Waiting on answer to the question can the cost of enforcement be added to the fee?

(e) **Term of Permit.** Notwithstanding any provision of this Code to the contrary, any home-sharing permit shall be effective for one year

Allows 1
Allows 1 or 2
??

Remove

*This is common sense and was passed in the NOLA Ordinance

*Adding because it the right thing to do

Conform to Malibu Code

*add this clarifying language because Platforms are consolidatong i.e Airbnb's purchase of Luxury Retreats etc,

*Adding this because it's integral to enforcment. This provsion was won in Boston by settlement of Airbnb / Homeaway lawsuit.

Waiting on answer to the question can the cost of enforcement be added to the fee?

*Updated to reflect the statutory maximum fine for Malibu

*Updated to all 120 day grace period

–

Kelsey Pettijohn

Subject: FW: Letter from the STR Coalition
Attachments: Attachment_1_Additions_to_the_Malibu_Rules_for_Homesharing .docx; ATT00001.htm

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

RECEIVED
Dec 02 2019
CITY CLERKS OFFICE
CITY OF MALIBU

From: Michael Lustig <letsregulate@gmail.com>
Date: November 30, 2019 at 3:46:38 PM PST
To: Heather Glaser <hglaser@malibucity.org>
Cc: Karen Farrer <kfarrer@malibucity.org>, Mikke Pierson <mpierson@malibucity.org>, Rick Mullen <rmullen@malibucity.org>, Skylar Peak <speak@malibucity.org>, Jefferson Wagner <jwagner@malibucity.org>, John Mazza <res02igz@gte.net>, Kraig Hill <kraig.malibu@gmail.com>, Steve Uhring <steve.uhring@gmail.com>, Chris Marx <chrismalibupc@gmail.com>
Subject: Letter from the STR Coalition

To: City Council

I am writing to you on behalf of the Coalition of organizations, including the Malibu Township Council, Malibu Action Network, and the Las Tunas Beach, Malibu Road Association, Malibu Country Estates Homeowners' Associations, Sycamore Canyon, and the more than 400 individual residents who signed the petition we brought to City Council on October 28, 2019.

At the December 3rd City Council meeting, we ask that you to reject the Interim ZTA from September 26, 2018. The interim ZTA did not follow Council instructions from July 9, 2018 and is even more dangerous because it codifies and legalizes uses that the Santa Monica HSO takes away, specifically, the permitting of un-hosted primary and non-primary residences.

The residents of Malibu are united in their support of the proposed version of the Santa Monica HSO providing it contains:

- The updated definitions and provisions passed by Santa Monica on September 29,2019 that require the permitted host to be a long-term resident of their primary residence.
- The host is required to be on-site during the time the guest occupancy.
- Direct the City attorney to include and conform the complete set of Hosting Authorizations, Hosting Permit Conditions, Rules for Advertising and the Hosting Platform Responsibilities.

In addition, we are asking you to make a motion to adopt a version of the additional language and provisions that are included with this letter as Attachment 1 and to direct the City Attorney to conform to the Malibu City Code.

Finally, In place of a second reading of the September 26, 2018 ZTA, we are requesting a first reading of the new Malibu HSO Rules rescheduled in January or early February of 2020.

Thank you for all you time and attention to this important issue facing the residents of our community.

Respectfully,
Michael Lustiig on behalf of the STR Coalition

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/19 Agenda File

I. Purpose

a.) This Article is adopted pursuant to the City's police power to preserve the City's permanent housing stock, balance the economic opportunity created by short-term rentals with the need to maintain a supply of long-term rental housing stock available at a range of prices, reduce any indirect negative effects on the availability of affordable housing that results from the dedication of long-term housing stock to Short-Term Rental use, ensure the sufficient collection of tax revenue, mitigate the disruptive effects that unmonitored short-term rentals can have on neighborhoods, and protect the livability and quality of life of the City's residential neighborhoods.

II. Allowance for a Designated Operator

a.) Some residents would like to be able to rent their home when they go on vacation. We would like to add a provision that allows for the owner to designate (1) individual who is required to be on-site with the guests when the owner is out of town. The designated operator cannot be a professional management company and is only allowed to be the designated operator for one listing.

The same would apply for Multifamily Buildings where the owner does not live on-site or occupy the unit(s) that are permitted as STRS. The designated Operator would be allowed to oversee the more than one permitted unit but only in that one building.

III. Authorization for Homesharing / Conditions of Use for Short Term Rental

a.) Requirement of OWTS – added by Council on October 28, 2019.

IV. Additional Prohibitions

a.) Events, parties, and other commercial uses are prohibited during guest use of the short-term rental. No special event permit or film permit shall be obtained for an event occurring at dwelling unit during any period of guest occupancy.
b.) Rental of the Dwelling Unit by the hour or for any period less than one night is prohibited.
c.) Discriminating against any Guest, or potential Guest, because of race, color, sex, gender identity, age, religion, disability national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income.

V. Hosting Platform Responsibilities

a.) All Platforms shall ensure that any portal, listing service, or website under its ownership or control that facilitates booking transactions in Malibu complies with the terms and requirements of this Article.

b.) Platforms must take down non-permitted or non-compliant listings within 7 days upon written notification by the City.

VI. MOTION TO: CREATE THE BUDGET FOR TWO COMPLIANCE OFFICERS and put enforcement under Planning Commission

RECEIVED
Nov 25 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

Subject: Short term rentals in Malibu: what is a neighborhood?

From: Marshall Thompson
Sent: Sunday, November 24, 2019 10:02 AM
To: Justine Kendall <jkendall@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>
Cc: Bonnie Blue <bblue@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Skylar Peak <speak@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>
Subject: Short term rentals in Malibu: what is a neighborhood?

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/2019
Agenda Item # 1A

Marshall Thompson
Fearless Video and Photography
Education Media Specialist
Member Television Academy
https://www.linkedin.com/in/marshallthompsonvideo/

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/2019 Agenda File

A “No” vote on short term rentals

What is a neighborhood? Ask Mr. Rogers. National Geographic Society writes “A neighborhood is an area where people live and interact with one another. Neighborhoods tend to have their own identity, or ‘feel’ based on the people who live there and the places nearby. Residents may have similar types of families, incomes, and education level. Neighborhoods can include restaurants, bookstores, and parks.” Generally, a neighborhood is not a commercial zone. Short term rentals and Air B and B’s commercialize neighborhoods and disrupt the lives and interactions of people who have invested in homes and who – by law – are entitled to the “quiet enjoyment” of their properties, often the largest investment of their lives.

Prior to buying our property If I had wanted to live next door to an auto body repair shop, motel, dance hall or fast-food restaurant, then that would have been my choice. But when the City of Malibu commercializes my street with short term rentals after the fact, they never consult me nor am I allowed to participate in a major alteration of the nature of my neighborhood. This is wrong. “How dare you!” I shout, copying the words of climate activist Greta Thunberg.

Monetizing my neighborhood to fill income gaps in the City’s budget is not justified in my opinion compared to the damage this policy creates. My son lives in Culver City and is plagued daily by the noise and disruption of a next-door party house. In Malibu my wife and I have had random would-be air B n B renters ring our doorbell at all hours asking if we are the air B n B they are seeking. We are not, it’s next door. One major negative impact we discovered after the Woolsey wildfire that burned our home to the ground is the removal of many affordable month to month home rentals from the market.

STR clients’ cars compete for parking in our cul de sac. They are just here for a short time so they are unaware of the fire danger or escape routes common to Malibu. This disruptive business reduces our town to a commodity to be exploited by the short term renters and the City. What benefit does my family get out of short term rentals? Zero, nada, bupkiss: noise, more traffic, an ever-changing army of strangers in my previously quiet neighborhood.

Short-term rentals are a new phenomenon. The income from them did not exist and yet cities were somehow able to operate and thrive without this additional income. According to https://la.lawsoup.org/ as of 11/20/19 there are local restrictions on these disruptive rentals:

A “No” vote on short term rentals

West Hollywood – The only short term renting allowed is a “Home Share,” which means you can rent out part of your home, but ONLY IF you OWN and RESIDE in the unit during your paying guests’ entire stay. To do so you must obtain a Home Sharing Business License from the city of West Hollywood. Other than this you may not rent out any unit, whether a full unit or just a spare room, for less than 31 days.

Beverly Hills – Generally, single family homes must rent for a minimum of 6 months at a time; however, you may have a shorter term rental no more than twice per year, but you must collect a “hotel tax” from guests. For multi-unit buildings, NO short term rentals are allowed; all rentals must be 30 days or more.

City of Los Angeles – Under new rules passed in December 2018, effective July 2019 you may only rent out your “primary” residence, not a second home or investment property. However, if your property is rent-controlled, you can’t do it at all. You are generally limited to a total of 120 days per year. But as of October 2019, there may be some more changes coming soon. See more at our Guide to Short Term Rental Laws in Los Angeles.

Santa Monica – you may not rent out a full unit for less than 30 days; you may rent out a spare room, but you must collect “hotel tax” of 14% from guests.

As a local homeowner, my vote is to outlaw all temporary rentals under 30 consecutive days.

Sincerely,

Marshall Thompson

Kelsey Pettijohn

RECEIVED
Dec 02 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Subject: Short term rentals. The hotel next door.

-----Original Message-----
From: Nancy Schapiro
Sent: Sunday, December 1, 2019 8:29 AM
To: Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; cityclerk <cityclerk@malibucity.org>
Subject: Short term rentals. The hotel next door.

I write again, seeking your assistance.

Please, if you allow Short Term Rentals, institute MINIMUM STAY regulations.

My next door neighbors rent their guest apartment for ONE night stays.

It is unfathomable that they get away with this. NOBODY regulates this hotel use.

They have a very popular accommodation as it is a ONE night obligation.

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

We bear the brunt of this.

Cars park directly under our bedroom window.

Check in takes place there.

Car doors and trunks slam.

Hatches and trunks beep.

The sound of luggage scraping across the driveway,

The beeping of cars locking and car alarms activating, DAILY.

We have lost all peace. We cannot open our bedroom windows.

We have asked them to park their guests closer to their house and the rental unit. We have explained the impact on us. We have been completely disregarded. Their convenience of quickly pulling out of their garage, completely unobstructed, trumps our pleas.

We are POWERLESS over neighbors who choose to do as they please. They win. They profit. We lose, our peace, our privacy.

It is imperative that you place our zoning, the importance of our quiet residential neighborhood, over profit for the few.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/19 Agenda File

Proponents of STRs state that they need income to stay in Malibu. I point out, once again, that 30 day and over rentals are currently allowed.

Again, I point out, that we were displaced for 8 months after Woolsey. We couldn't rent month to month. Nothing was available, only STRs at $2,000-$3,000 per night for our type of house in our neighborhood. Insurance wouldn't pay. We rented in LA. We drove, constantly, to Malibu to deal with the aftermath, a 2-3 hour round trip commute. STRS ate away at any hopes we had of being in Malibu. We will see this again this coming year, as insurance companies only commit to monthly leases as houses near completion. People will be shocked to see that they can't live in Malibu. Summer is the worst of times. STRs strip the housing stock.

I propose a total ban on STRs. Absent that I propose SEVEN night minimums.

One night stays are a HOTEL use. We did not move near 20 years ago to live next to a hotel.

Thank you for your time.

Sent from my iPad

RECEIVED
Dec 03 2019
CITY CLERKS OFFICE
CITY OF MALIBU

To: Members of the City Council
From: Patt Healy on behalf of the Malibu Coalition for Slow Growth (MCSG)
Re: Short Term Rental Ordinance
Agenda Item: 1A
Date: December 3, 2019

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

Honorable Members of the City Council,

Please consider the following additions /changes regarding the proposed Short-Term Rental Ordinance

This is an interim ordinance and is to be replaced by the end of 2020 by the Santa Monica ordinance language It should be made clear and stated in the ordinance otherwise we fear that the owner occupied ordinance might be delayed.

Add that Accessory Dwelling Units can't be rented for STR. If allowed it would defeat the purpose of ADU law that becomes effective 1-1-20 since it was passed to alleviate the housing shortage.

The proposed ordinance states an individual may not possess more than one active short-term rental permit. But what about corporations partnerships and other entities ? Under the proposed ordinance they can have as many permits for as many residences as they wish. These entities should be limited to one active permit just as individuals are.

Preferably add a provision to the ordinance stating that Corporate and other entities owning residences are prohibited from renting short term. It is imperative that this is put in the ordnance. To rent short term the owner must be an individual or an individual's trust. The fact that a natural person can apply for a short term rental is a loophole that can easily be gotten around. For example, a corporate owner could have its manager apply for a permit or the corporation could lease to an individual ,who acts on behalf of the corporation in obtaining the permit.

In applying for a permit the applicant must prove that he or she is the owner of the property and it is their primary residence by providing a copy of a current tax bill, indicating that the owner has homeowner's exemption at the property address seeking the permit.

An Owner's can only be revoked if there are more than 2 or 3 violations. The permit should be revoked after 2 violations, including but not limited any nuisance including noise , parking violations, cars clogging streets, overflowing trash bins etc. Owners have to be responsible Short Tern Landlords otherwise they loose the right to rent short term.

Add a provision stating temporary Use Permits should not be granted to short term renters for any reason especially for a large party. Why should short term renters be

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/19 Agenda File

allowed to come into a neighborhood and have an an event which will or have the potential of causing an inconvenience or nuisance to the neighbors. Furthermore, the city to require the owner of the property to prohibit in their STR contracts any events that have the potential to create a noise or other nuisance.

How quickly will citations be issued. A citation should be issued within 72 hours of the reported violation and a fine imposed. Malibu has numerous unaddressed code violations complaints that have been in the pipeline for a long period of time and not addressed. The short term rental complaints should not fall into this category and addressed immediately.

Hotline, a distant hotline as outlined in the ordinance doesn't satisfactory remedy a neighbor's complaint. The city should be able at all times be available to quickly address complaints. When city hall is closed the city should employ a person locally to immediately address complaints and issue citations. If it is to be the Sheriff, the Sheriff has to be instructed to put an immediate end to all reported nuisances that in any way disturb the peace of a neighbor. In addition, the sheriff should be required be required to report all such disturbances to city code enforcement and a citation issued either by the sheriff Immediately or by code enforcement within 72 hours.
If the city employs an individual to be in Malibu when city hall is closed that person can be assigned to monitor the compliance with Dark Sky Ordinance and report violations of that ordinance too .

High Number of renters in a residence leads to abuse. The limit should be 2 individuals to a bedroom but in no event more than 8 persons. Fourteen people is inviting a nuisance

RECEIVED
Nov 27 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/2019
Agenda Item # 1A

From: Pete Slaga <pete.slaga@turnkeyvr.com>
Sent: Wednesday, November 27, 2019 3:24 PM
To: cityclerk
Subject: Short Term Rental Meeting

I'm writing to share my concerns regarding your proposed changes to the short term rental laws in Malibu.

I believe that good regulations can help both ensure proper neighbor relations, assist all owners who short term rent, employ local vendors and help contribute financially to the City of Malibu through TOT tax, fees, and by shopping in the local economy.

My main concern is that the council is considering only allowing short term rentals for homes that are a primary residence. What is the rationale behind this? If it is because of the fear that investors are purchasing properties to turn into short term rentals this is simply false and I would like to see any proof provided otherwise. A modest 2 million dollar home by Malibu standards does not come close to generating the income to pay for the mortgage let alone, property taxes, utilities, insurance, etc. However, there are those Owners who won a vacation home or future retirement home in Malibu and rent their home as a short term rental for those who are looking to come to Malibu. I would also point out that not all who come to stay in a vacation rental in Malibu are on vacation. Homes in and around were used to help families that lost their homes during the recent fires.

If there are concerns that short term rentals make up a large number of nuisance complaints there is a report from the City of Ventura that states otherwise. (City of Ventura report and STR Effect on Neighborhoods Study by California Economic Forecast, Santa Barbara, CA.) This data disproves those who claim that vacation rentals are ruining the neighborhoods. If there are nuisances it usually is a result of a home being over occupied which can be quickly remedied by using a 2 person per bedroom formula. (3 bedroom home = 6 guests)

Also, I would like to remind the City that the California Coastal Commission believes in everyone having access to the beach and they have been in full support of vacation rentals. If you are considering any changes I must remind you? that in the Coastal areas any changes must be approved by the Coastal Commission. If you are not familiar with, I would look at the recent lawsuit up in the City of Santa Barbara.

Lastly, I would like to propose a summary of regulations that I feel is fair to all:

1. Regulations can ensure that each registered property is assigned a maximum number of two overnight guests per bedroom count, and the maximum # of daytime guests and cars allowed at the property at any time.
2. Outdoor quiet time (9:00pm to 7:00am), No RVs, No parties or hosted events, and many other controls could be put into place to ensure neighborhood compatibility.
3. Modern technology now allows for vacation rentals to monitor guests entering a home through devices like the Ring doorbell which has a motion-activated camera that an owner or manager can use to monitor a property. There are also in-home and outdoor noise decibel meters that can send alerts if a certain noise threshold is exceeded.
4. A Nuisance Response Plan system similar to the City of Ventura. (See the list of *Registered Nuisance Response Plans* at http://www.cityofventura.net/ft/STVR). This plan posts owner or manager contact details for all registered properties.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/2019 Agenda File

a. Short-Term Rental Permit Holders should be required to respond to nuisance complaints within a reasonable amount of time with a central number that goes to a security company. This can be used to field complaints thus relieving the burden on the Sheriff department. This could be funded partially by STVR permit fees and fees to come out and check on a property due to a complaint.
b. Noise complaints can be registered, and response times recorded and monitored.

5. By having regulations, there can also be a means for vacation rental owners that do not respect regulations to have their permit revoked.
6. The regulation also means additional TOT tax income and a means to effectively monitor and track vacation rentals.
7. A short term rental permitting process would allow the City to generate income as well. An example would be an annual $500 permit fee.



Pete Slaga Regional Sales Manager
805-517-4060 **Direct**
pete.slaga@turnkeyvr.com
https://turnkeyvr.com/





Kelsey Pettijohn

RECEIVED
Dec 02 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Subject: short term vacation rentals

From: Pamela Van Ierland [mailto:pamela@vacationrentalmalibu.com]
Sent: Monday, December 2, 2019 8:56 AM
To: Bonnie Blue <bblue@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Karen Farrer; Jefferson Wagner <jwagner@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>
Subject: short term vacation rentals

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

Hello,

As a licensed realtor at Coldwell Banker here in Malibu and as the owner of Vacation Rental Malibu I have a way to help this horrible situation Malibu now faces with abuses from STVR's.

How do I sign up to speak at Tuesdays meeting please. See below for what I will be saying. I urge you to please consider this option!
It is a way to control the giant companies that are abusing Malibu yet keep money coming into the city.
Pamela

As we all know just a few years ago several national firms entered into and participated in the STVR market in Malibu. We are in front of City Council tonight to discuss an ordinance, to address the many problems and abuses arising from their participation and their entry into our special community. I am a licensed realtor in Malibu and own Vacation Rental Malibu and I share City Councils concerns and the concerns of my Malibu neighbors. The Malibu Realtor community has also been negatively affected by this national phenomena, agrees that it is a problem, and we wish to be a part of the solution.

I have carefully read the proposed ordinance on short term vacation rentals in Malibu and agree it is long overdue and is appropriate.
I respectfully ask that you consider a **minor** addition which will have a **major** impact.

Allow licensed realtors to book short term vacation homes.

Licensed realtors in the city of malibu, currently engaged in both short term and long term rental of homes, are a valuable local resource and will insure another level of compliance and enforcement with the ordinance, as they have in the past on state and municipal levels.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/19 Agenda File

A good example of the partnership between Malibu and the real estate community can be found in the Malibu Association of Realtors listing documents, which require compliance with the city's OWTS ordinance. This has been very successful
By adding this short provision, the city will have insured a more positive outcome and at absolutely no cost.

If the city is willing to add this minor modification, the realtor will undertake responsibility for guests conduct and property owner compliance. Consequently as a result the realtor could obviate the need for the owner occupant to be on the premises or for the owner to reside at the property for a requisite number of days

The State of Calif. requires that persons, other than the homeowners negotiating leases of 30 days or more, be licensed realtors, likewise the city of malibu, by adding this provision, could require that licensed realtors engaged by the owners may take responsibility to insure compliance.

.
As you know a similar ordinance was passed by the city of Santa Monica , **absent** the realtor provision that I am suggesting. It's generally accepted that abuses and violations have continued in Santa Monica; indeed it is still possible to book short term vacation rentals ,which may not be in compliance.

This one simple addition to the proposed ordinance would add additional enforcement at absolutely no cost, and would enable the city of malibu to continue to enjoy badly needed revenue while protecting homeowners and neighborhoods.

Currently the city of Malibu trusts licensed realtors with leases of 30 days or more, why not trust them with 30 days or less?

Thank you

--
Pamela Van Ierland
Vacation Rental Malibu
Pamela@vacationrentalmalibu.com
310-487-8799
www.vacationrentalmalibu.com

Agent- Coldwell Banker
Malibu West Office
BRE License # 02013069

Kelsey Pettijohn

Subject: Special Council Meeting Dec 03 Item 1A 2. Item Short-Term Rentals Ordinance

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

RECEIVED
Dec 03 2019
CITY CLERKS OFFICE
CITY OF MALIBU

From: Rosemary Sampson
Sent: Tuesday, December 3, 2019 3:21 PM
To: Mikke Pierson <mpierson@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Skylar Peak <speak@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>
Subject: Special Council Meeting Dec 03 Item 1A 2. Item Short-Term Rentals Ordinance

Rosemary Sampson — Resident 31801 Cottontail Lane, Malibu Ca

City Council Special Meeging — Item 1a Short Term Rental Ordinance

The State of California requires that each City and County have General Plans that include that specific requirements be met for Affordable Housing. Zoning laws that are designated as Residential single family are meant to exclude commercial properties within the designation. If the City decides to adopt a temporary fix to placate a small percentage of our population, it does injustice to the majority of its citizens who support the City, its school system, its community, and its businesses. The people that participate in the community are here for the long term. They raise money for new school equipment. They help with scout troops. They volunteer to coach little leagues, to assist in educating our children. They make it possible for our youth to travel to competitions that they would not be able to attend. They deliver meals to our housebound citizens of all ages.

Reducing the housing stock for lease or sale in a community by allowing short term rentals of less than thirty days increases the likelihood of price increases for long term rentals and houses at the lower end of our market. This has been proven in a number of studies conducted by independent scholars. I provided you with a copy of the document by Economic Policy Institute. There is substantial evidence presented by this group and by a number of other including but not limited to: The Harvard Law and Policy Review, The University of Massachusetts, The National Bureau of Economic Research, The University of California, Los Angeles (UCLA) and The University of Southern California. Just a 10% increase of short-term rental listings found to lead to a 0.42% increase in rents and a 0.76% increase in housing costs. The actual 800% overall increase in short-term rental listings since 2011 is responsible for a 33.6% rent increase over the same period of time. For comparison, the median household income in the U.S. grew only 18.0% over the same 5 year period. These studies found that the effect of Airbnb is smaller in zipcodes with a larger share of owner-occupiers, a result consistent with absentee landlords taking their homes away from the long-term rental market and listing them on Airbnb."

You don't reward miscreants by legitimizing their actions. Let's be fair to all here. Do not identify short term rental properties as anything other than types of hotels. Do not permit them to be operated where a hotel cannot be operated. This is the short and long of it.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/19 Agenda File

Kelsey Pettijohn

RECEIVED
Dec 03 2019
CITY CLERKS OFFICE
CITY OF MALIBU

Subject: STR suggestions

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

From: Scott Dittrich
Sent: Monday, December 2, 2019 5:05 PM
To: Karen Farrer <kfarrer@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>
Subject: STR suggestions

Hi Everyone,

I think staff has done a god job on this.

I do find the two provisions on page 6 – "B" and "C" to be problematic,

First under B, dealing with Non-primary residence permit for multi unit apartments of 3 or more units, to be inadequate. You could have a tri-plex and rent two of the units on an STR basis. I think it essential that one unit be occupied by a live in manager. While these types of properties may only have 2 units rented as STRs, it should be the lesser of two units or 50% with fractional units not permitted. This a triplex could only use one of three units for an STR. I would drop the restriction on STRs being allowed only April1 – September 1. Same for "C"

Under "C" for non-owner occupied apartment buildings, I think a manager needs to be on site and again I would not allow a triplex to be rented for 2 STRs.

Also, I would like the enforcement to be spelled out in greater detail.

Last, there may be those who complain that they need the money to rent their home, even though it is not a primary residence. This is nonsense. Rental prices in Maliu have skyrocketed in the last few years, especially after Woolsey depleted our housing stock by 18%.

Thanks,

Scott Dittrich

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RECEIVED
Dec 03 2019
CITY CLERKS OFFICE
CITY OF MALIBU

FILED
City of Malibu
Office of the City Clerk
Meeting Date 12/3/19
Agenda Item # 1A

November 29, 2019

Re: Short Term Rental Ordinance
Zoning Text Amendment No. 17-002

To: Justine Kendall, Assistant Planner

Please distribute to the City Council and Other Interested Parties

Dear Council Members:

I am opposed to the proposed Short Term Rental (STR) Ordinance as this is explicitly forbidden by the City of Malibu LCP Local Implementation Plan adopted by the California Coastal Commission on September 13, 2002. See the chart of permitted uses beginning on page 325. The chart shows allowable uses in all zone categories. The only place allowing STR, B&B and/or motels/hotels is in CV1 (Commercial visitor serving 1). They are NOT allowed in any of the residential categories.

Yet, the City Planning Department has chosen to ignore the LIP, for no other reason than tax dollars and a contract with Airbnb are more precious than preserving our residential and rural residential neighbor character.

Prior to the Woolsey fire, our primary ocean view and our cul de sac has been turned into a de-facto motel with nightly visitors from Airbnb and HomeAway. First, the next door neighbor rented his airstream to Airbnb customers. After being cited by code enforcement, he turned his barn, a mere 12 feet or so from our property, into a nightly STR complete with a separate driveway. This added a motel like feel to our otherwise rural residential neighborhood and dead end street. We bought our home 22 years ago expecting to live out our senior years in peace and quiet. Having a parade of strangers moving in nightly 365 days a year next door was about as unlikely a scenario in our rural residential neighborhood as we could have imagined.

Now, this neighbor also lost his home and guest house in the Woolsey fire. I see he has been approved for a new home and guest house, which I am sure he plans to rent out nightly after rebuilding. Sadly, many of the others who lost their homes in the fire cannot find rental housing in Malibu. What is available now and later should be only rented for long tern housing. Once rebuilding is finished, allowing a hotel/motel atmosphere in a rural residential neighborhood is inappropriate.

Further, we have enough traffic on PCH as it is – adding hundreds more strangers to the roads is asking for trouble. They have no idea what to do in a fire, earthquake or other emergencies common in Malibu. The terrible miles long evacuation that ensued in

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 12/3/19 Agenda File

the Woolsey fire proved that increased visitors through STRs would be a disaster in a fire.

Use the money that you received form Edison to balance any budget deficits -- not Airbnb funds. Please do not approve STRs in our rural, beautiful city.

Respectfully submitted,



Susan M. Tellem

MINUTES
MALIBU CITY COUNCIL
SPECIAL MEETING
DECEMBER 3, 2019
COUNCIL CHAMBERS
5:00 P.M.

MEETING CALL TO ORDER

Mayor Farrer called the meeting to order at 4:30 p.m.

PUBLIC COMMENT ON CLOSED SESSION

None.

RECESS TO CLOSED SESSION

At 4:30 p.m., on the advice of counsel and based on existing facts and circumstances, the Council recessed to Closed Session to discuss the following item listed on the Closed Session agenda:

The following item was listed on the Closed Session agenda:

Conference with Legal Counsel — Anticipated litigation

1. Significant exposure to litigation pursuant to Government Code ~54956.9(d)(2)
   Number of Cases: 1
   Letter dated October 25, 2019, from Milton Grimes regarding threat of litigation under California Voting Rights Act of 2001

REGULAR SESSION CALL TO ORDER

Mayor Farrer called the meeting to order at 5:13 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Karen Farrer; Mayor Pro Tem Mikke Pierson; and Councilmembers Rick Mullen, Skylar Peak, and Jefferson Wagner

ALSO PRESENT: Trevor Rusin, Assistant City Attorney; Reva Feldman, City Manager; Lisa Soghor, Assistant City Manager; Heather Glaser, City Clerk; Bonnie Blue, Planning Director; Rob DuBoux, Public Works Director; John Natalizio, Deputy City Attorney; Matt Myerhoff, Media Information Officer; and Justine Kendall, Assistant Planner

PLEDGE OF ALLEGIANCE

Los Angeles County Sheriff's Deputy Mike Treinen led the Pledge of Allegiance.

CLOSED SESSION REPORT

Assistant City Attorney Rusin reported that the Special meeting convened at 4:30 p.m. at which time the City Council recessed to a Closed Session pursuant to Government Code Section 54956.9(d)(2), with all Councilmembers present. He stated the Council discussed the item listed on the Closed Session agenda and took no reportable action.

APPROVAL OF AGENDA

MOTION Councilmember Peak moved and Councilmember Mullen seconded a motion to approve the agenda, hearing Item No. 2.A. before Item No. 1.A. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

City Clerk Glaser reported that the agenda for the meeting was properly posted on November 20, 2019, with the amended agenda posted on November 26, 2019.

ITEM 2 NEW BUSINESS

A. Resolution of City of Malibu v. Southern California Edison (Woolsey Fire Litigation)
Recommended Action: Consider final agreement memorializing the settlement approved in concept in City of Malibu v. Southern California Edison (Woolsey Fire litigation).

Assistant City Attorney John Natalizio presented the report.

Bruce Silverstein stated it was a conflict of interest for one law firm to represent all the public entities in the lawsuit against Southern California Edison (SCE). He expressed concern the settlement agreement was releasing other government entities that may have contributed to or caused damage in the Woolsey Fire.

Ryan Embree echoed the concerns of Mr. Silverstein. He expressed concern that projected financial impact and expenses had not been accounted for or included in the settlement.

Councilmember Mullen stated the settlement agreement was a positive outcome for the City in the wake of the Woolsey Fire. He thanked City staff and the City Manager for their work and diligence in handling the settlement.

In response to Councilmember Wagner, Assistant City Attorney Natalizio stated SCE and any entity associated with SCE would be released in the settlement

agreement in exchange for the cash settlement. He stated the settlement was a fair representation of the damages experienced by the public entities including the City.

Assistant City Attorney Rusin stated the City had been thorough in including future damages that could be attributed to the Woolsey Fire when documenting costs.

Councilmember Wagner stated he hoped the settlement would not alter the effect of the private entity mass tort lawsuits filed against SCE.

MOTION Councilmember Peak moved and Councilmember Mullen seconded a motion to: 1) approve final agreement memorializing the settlement approved in concept in City of Malibu v. Southern California Edison (Woolsey Fire Litigation); 2) direct the City Attorney to sign the Master Settlement Agreement; and 3) direct the City Attorney to take whatever further steps necessary to finalize the settlement. The motion carried unanimously.

ITEM 1 ORDINANCES AND PUBLIC HEARINGS

A. Short-Term Rentals Ordinance

Recommended Action: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 458 amending Title 17 (Zoning) of the Malibu Municipal Code and adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act; 2) Direct staff to schedule second reading and adoption of Ordinance No. 458 for the January 13, 2020 Regular City Council Meeting; 3) Adopt Resolution No. 19-53 initiating a Local Coastal Program (LCP) Amendment and zoning text amendment to consider changes to the Malibu LCP and Title 17 (Zoning) of the Malibu Municipal Code to regulate the short-term rental of residential property; and 4) Direct the Planning Commission to schedule a public hearing regarding the same.

Assistant to the City Manager Shavelson presented the staff report.

John Mazza stated there was no provision for short-term rentals in the Local Implementation Plan. He stated a Zoning Text Amendment (ZTA) was unnecessary. He stated the interim ordinance had loopholes. He requested the Council authorize staff to fast-track the Santa Monica ordinance. He stated the Santa Monica ordinance should not be sent to the California Coastal Commission (CCC) for certification. He stated a sunset date should be applied to the interim ordinance if it were adopted.

Graeme Clifford indicated agreement with Mr. Mazza's comment regarding the ZTA. He expressed concern that a new law would not be enforced. He stated the City would make more money fining illegally run short-term rentals. He stated quality of life was more important than money.

Pamela Van Ierland requested the Council allow licensed realtors to book short-term rentals. She discussed her vetting process for booking short-term rentals. She stated the realtor addition to the ordinance would negate the need for the homeowner to be onsite during the rental.

Marc Maniscalco discussed his multi-unit property. He stated every homeowner in Malibu should have an equal opportunity to participate in short-term rentals. He indicated support for a permit system and enforcement. He stated the City should not allow some poorly run short-term rentals ruin the process for everyone.

Andrew Gombiner expressed concern that the proposed ordinance would result in financial consequences for the City both in revenue and credit rating. He stated a small group of people mismanaging short-term rentals should not ruin allowing short-term rentals for everyone else.

Norm Haynie indicated agreement with Mr. Mazza. He stated short-term rentals in Malibu were a commercial use in a residential community.

Bruce Silverstein stated the proposed ordinance did not reflect what the Council directed staff to bring back. He stated interim legislation did not need to be adopted. He stated short-term rentals were not permitted in areas zoned residential.

Hayley Moss deferred her time to Michael Lustig.

Sharon Barovsky deferred her time to Michael Lustig.

Wendy Carroll deferred her time to Michael Lustig.

Rosemary Sampson deferred her time to Michael Lustig.

Beatrix Zilinskas deferred her time to Michael Lustig.

Michael Lustig stated the Santa Monica ordinance would reduce the number of listings in Malibu by a little more than half. He stated requiring the host to be onsite would mitigate nuisances and stop party houses. He stated the ordinance treated all rental platforms the same and would give the City tools to take down non-compliant listings. He requested the Council not adopt the ZTA and, instead, pass the Santa Monica ordinance.

Steve Uhring stated short-term rentals were a problem. He discussed the importance of enforcement.

Sam Hall Kaplan stated the City had been mismanaged.

Kraig Hill indicated support for Mr. Lustig's comments. He stated the interim ZTA was a mistake. He indicated support for the Santa Monica ordinance. He

stated the ZTA was illegal under the current zoning of single-family residential. He stated the ordinance should not be sent to the CCC.

Richard Lawrence, on behalf of the Malibu Township Council, questioned why the law that stated short-term rentals were illegal was not being enforced. He questioned why long-term RV parking was allowed on Pacific Coast Highway.

Doug Carroll deferred his time to Randy Turtle.

Sue Peck deferred her time to Randy Turtle.

Randy Turtle discussed her short-term rental program. She stated short-term rentals were an asset to the City.

Ryan Embree stated the definition of homeowners association needed to be revised. He stated the City was not dependent on revenue from short-term rentals.

Rebecca Thompson declined to speak.

Scott Dittrich indicated opposition to submitting the ordinance to the CCC. He indicated opposition to an interim ordinance. He stated party homes were a problem that needed enforcement.

Tatiana Goode was not present at the time of the hearing.

Anne Payne deferred her time to Lloyd Ahern.

Lloyd Ahern stated enforcement was the key to successful laws. He indicated opposition to submitting the ordinance to the CCC.

Yelena Zeltser, on behalf of UNITE HERE Local 11, stated hospitality workers bore the brunt of the housing crisis that was exacerbated by the existence of short-term rentals. She indicated support for the Santa Monica ordinance.

Monica Biriseno declined to speak.

Richard Johnson stated rentals should be differentiated by their proximity to other dwellings.

Brian Merrick indicated opposition to government overreach. He stated onsite wastewater treatment system requirement should not apply to one-room rentals. He questioned why rental period limits would be set on properties. He stated many properties in Malibu were held in LLCs or by corporations but were never used as short-term rentals. He stated property titles held in a specific way should not be penalized. He stated the ordinance should not go back to the Planning Commission.

Robert Cramer stated short-term rental was a property right. He stated short-term rentals in Malibu pre-dated the LCP. He indicated support for property managers to be able to fill the role of a host being onsite.

RECESS

At 6:31 p.m., Mayor Farrer recessed the meeting. The meeting reconvened at 6:40 p.m. with all Councilmembers present.

Councilmember Mullen indicated support for a simple solution and going straight to adopting an ordinance similar to what Santa Monica adopted.

In response to Councilmember Mullen, Assistant City Attorney Rusin stated the City had been allowing short-term rentals. He stated regulations and restrictions were proposed to enforce nuisance issues in the interim. He stated the ZTA would start the process of constraining short-term rentals in Malibu. He stated moving to a home-sharing ordinance represented a change in use and a departure from how the LCP had been previously been applied in the City. He stated the fact that no ordinance was on the books prevented the City from proper enforcement, but the interim ordinance could provide some relief to homeowners in need of enforcement.

Planning Director Blue discussed the option to fast-track the home-sharing ordinance. She stated City processes could be done by late spring 2020, but the California Coastal Commission would need to weigh in and its timeline was not in the control of the City.

In response to Councilmember Mullen, Assistant City Attorney Rusin stated the home-sharing ordinance could not be enforced until it was approved by the CCC. He stated the ZTA would get the City most of the way until the CCC approved the home-sharing ordinance.

In response to Councilmember Wagner, Assistant City Attorney Rusin stated someone could always allege a taking by the City. He stated in order to mitigate that as best as possible, the City was attempting to give the community plenty of notice of an upcoming change.

Mayor Pro Tem Pierson thanked the public for its input. He indicated support for the home-sharing ordinance. He discussed the interim ZTA and stated it was important to find a balance.

Councilmember Peak thanked the public for its input.

In response to Councilmember Peak, Assistant City Attorney Rusin stated an Local Coastal Program Amendment (LCPA) needed to be done for a home-sharing ordinance. He stated Santa Monica never allowed short-term rentals. Councilmember Peak indicated support for focusing staff efforts on the home-sharing ordinance.

Mayor Farrer thanked the public for its input. She clarified the Council direction from the October 28, 2019 Council meeting by reading the action.

Councilmember Peak stated the proliferation of short-term rentals was the biggest contributor to the housing crisis. He discussed the importance of neighborhoods.

Mayor Farrer discussed the importance of enforcement.

In response to Mayor Farrer, Planning Director Blue stated the local adoption process could be complete in spring of 2020. She stated a year was not unrealistic to estimate for the CCC to complete its process. She stated a home-sharing approach for Malibu had not been discussed with the CCC.

Mayor Farrer quoted from a CCC letter dated December 6, 2016, stating regulation of short-term rentals in Malibu was a change of use. She read an excerpt from a CCC letter dated September 20, 2018, stating an LCPA was required for regulation of short-term rentals. She stated it was important to have an interim ordinance due to the amount of time the home-sharing ordinance could be with CCC.

Mayor Pro Tem Pierson questioned whether the cost of enforcement could be included in the cost of a permit for short-term rentals.

Assistant City Attorney stated some Host Compliance costs may be able to be recovered. He stated analysis would have to come back on what could be charged in permit fees.

Councilmember Wagner expressed concern that the ZTA may present problems with the LCPA in the long run.

Mayor Farrer stated a much more drastic change would be to go from no ordinance at all to the home-sharing ordinance.

Councilmember Wagner indicated support for utilizing staff time to focus on implementation of the LCPA.

Councilmember Mullen stated the ZTA would provide some teeth for enforcement.

In response to Councilmember Mullen, Mr. Lustig stated the home-sharing ordinance would force platforms to remove non-compliant listings. He stated the City should pass a law and let the CCC challenge it. He discussed a recent law in Boston.

In response to Councilmembers Mullen and Peak, Assistant City Attorney Rusin stated short-term rentals were allowed in the City and disallowing them would be a change in use, which would trigger an LCPA.

POLL

All Councilmembers indicated support for: 1) adopting Resolution No. 19-53 initiating a Local Coastal Program (LCP) Amendment and zoning text amendment to consider changes to the Malibu LCP and Title 17 (Zoning) of the Malibu Municipal Code to regulate the short-term rental of residential property; and 2) directing the Planning Commission to schedule a public hearing regarding the same.

Assistant City Attorney Rusin questioned whether Council wanted to add anything to the LCPA that would go back to the Planning Commission for consideration.

In response to Councilmember Peak, Councilmember Wagner indicated support for a robust definition section in the proposed ordinance that would provide parameters for enforcement. He indicated support for disallowing hourly rentals.

Councilmember Mullen indicated support analyzing and incorporating information from the September 10, 2019 City of Santa Monica staff report regarding amendments to ordinance to strengthen regulation of home-sharing.

Assistant City Attorney Rusin clarified the LCPA would be vetted through the Planning Commission and brought back to the Council for further consideration.

Councilmember Wagner stated it was important for the public to be informed during the process.

Planning Director Blue stated there was a dedicated page on the City's website that could be expanded upon with the Santa Monica ordinance and additional materials as the process went along.

Councilmember Mullen recommended including suggestions submitted by Mr. Lustig as appropriate.

Councilmember Peak suggested looking into platform liability and limitation issues.

Mr. Lustig discussed the Santa Monica ordinance and a Boston ordinance.

MOTION

Councilmember Peak moved and Councilmember Mullen seconded a motion to: 1) adopt Resolution No. 19-53 initiating a Local Coastal Program (LCP) Amendment and zoning text amendment to consider changes to the Malibu LCP and Title 17 (Zoning) of the Malibu Municipal Code to regulate the short-term rental of residential property; 2) direct staff to: a) include a robust definition section in the proposed ordinance, b) analyze and incorporate information from the September 10, 2019 City of Santa Monica staff report regarding amendments to ordinance to strengthen regulation of home-sharing, as well as suggestions submitted by Michal Lustig as appropriate; and c) look into platform liability and limitation issues; and 3) direct the Planning Commission to schedule a public

hearing regarding the same. The question was called and the motion carried unanimously.

ADJOURNMENT

MOTION Mayor Pro Tem Pierson moved and Mayor Farrer seconded a motion to adjourn the meeting at 7:47 p.m. The motion carried unanimously.

Approved and adopted by the City Council of the City of Malibu on January 13, 2020.

Karen Farrer
KAREN FARRER, Mayor

ATTEST:

Heather Glaser
HEATHER GLASER, City Clerk
(seal)

RESOLUTION NO. 19-53

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU INITIATING A LOCAL COASTAL PROGRAM AMENDMENT AND ZONING TEXT AMENDMENT TO CONSIDER CHANGES TO THE MALIBU LOCAL COASTAL PROGRAM AND TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE TO REGULATE THE SHORT-TERM RENTAL OF RESIDENTIAL PROPERTY.

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

SECTION 1. Recitals.

A. While the City of Malibu currently allows residential property to be rented on a short-term basis for periods of 30 days or less with registration and payment of transient occupancy tax and adherence to local laws and regulations, 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) against STR operators have been resisted and challenged. 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, 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential

zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition. The Commission further recommended that if, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, that the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

H. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. Council directed staff to revise the ordinance and return with additional information.

I. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

J. On October 28, 2019, the City Council held a duly noticed public hearing on short-term rentals and directed staff to return with a resolution to initiate a Zoning Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance to the City Council for adoption that can be implemented without an LCPA, with the understanding it will be superseded when the new ZTA and LCPA are approved.

K. On December 3, 2019, the City Council held a duly noticed public hearing, reviewed and considered the agenda report and previous agenda reports related to short-term rental regulation, reviewed and considered written reports, public testimony, and other information in the record and based thereon adopts Resolution No. 19-53.

SECTION 2. Initiation.

Pursuant to the City's Local Implementation Plan (LIP) Chapter 19 and MMC Chapter 17.74, the City Council hereby initiates amendments to the LCP and MMC Title 17 (Zoning) to address the potential impacts of short-term rental of residential property and protect the neighborhood character in the City by adopting regulations for the short term rental of property that prohibit use inconsistent with the General Plan and impose prohibitions and regulations consistent thereof and directs staff to issue a Notice of Availability consistent with LIP section 19.3.1. The amendments shall include proposing regulations that would limit the short-term rental of residential property to home-sharing except for certain multifamily housing where up to two units could be rented on a short-term basis without home-sharing, so long as the other units in the building were rented on a long-term basis.

SECTION 3. Planning Commission Hearing.

The Planning Commission is hereby directed to conduct a duly noticed public hearing in accordance with the provisions of LIP Chapter 19 and MMC Chapter 17.74. Following the public hearing, the Planning Commission shall recommend to the City Council whether it should approve, modify or deny the proposed amendments. The Planning Commission's recommendation shall be made by resolution carried by the affirmative vote of not less than the majority of the entire Planning Commission

SECTION 4. Certification

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 3rd day of December 2019.

KAREN FARRER, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:

CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 19-53 was passed and adopted by the City Council of the City of Malibu at the special meeting thereof held on the 3rd day of December 2019 by the following vote:

AYES:	5	Councilmembers:	Mullen, Peak, Wagner, Pierson, Farrer
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		

HEATHER GLASER, City Clerk
(seal)

This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order (revised March 21, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

HOW TO VIEW THE MEETING:
No physical location will be provided from which members of the public may observe the meeting and offer public comment. **The meeting which instead be live streamed at malibucity.org/video**.

HOW TO PARTICIPATE IN THE MEETING:
Written comments may be submitted to the Planning Commission before the meeting begins. Written correspondence should be submitted to planningcommission@malibucity.org. The public may also participate telephonically; information regarding participating telephonically or electronically will be distributed at a later date. Please check for an amended agenda at malibucity.org/agendacenter for the latest updates about participation in this meeting.

Malibu Planning Commission
Adjourned Regular Meeting Agenda
(to be held during COVID-19 emergency)

Monday, April 6, 2020

6:30 P.M – ADJOURNED REGULAR PLANNING COMMISSION MEETING
Various Teleconference Locations
YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT
MALIBUCITY.ORG/VIDEO

Call to Order – Chair

Roll Call – Recording Secretary

Approval of Agenda

Report on Posting of Agenda – March 27, 2020

1. Ceremonials / Presentations

A. Update on Planning Department's Operations During COVID-19 Emergency Declaration

B. Staff Update on the Woolsey Fire Rebuild Process

2. Written and Oral Communication from the Public

A. Communications from the Public concerning matters which are not on the agenda but for which the Planning Commission has subject jurisdiction. The Planning Commission may not act on these matters except to refer the matters to staff or schedule the matters for a future agenda.

B. Planning Commission and staff comments and inquiries

3. Consent Calendar

A. Previously Discussed Items

None.

B. New Items

1. Approval of Minutes

Recommended Action: Approve the minutes for the February 18, 2020 Regular Planning Commission meeting.

Staff contact: Planning Director Blue, 456-2489, ext. 258

2. Formula Retail Clearance No. 20-001 – Malibu Country Mart Shopping Center (Continued from March 16, 2020)

Location: 3835 Cross Creek Road, Unit C
APN: 4458-020-014
Owner: 3835 Cross Creek, LLC
Tenant: Seed Heritage
Case Planner: Associate Planner Thompson, 456-2489, ext. 280

Recommended Action: Receive and file.

3. De Minimis Waiver No. 19-010— An application for a new onsite wastewater treatment system (Continued from March 16, 2020)

Location: 29851 Harvester Road, not within the appealable coastal zone
APN: 4469-010-025
Owner: Vue Ventures, Inc.
Case Planner: Associate Planner Thompson, 456-2489, ext. 280

Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 19-010 for a new onsite wastewater treatment system (OWTS) to replace the existing OWTS.

4. De Minimis Waiver No. 19-013 — An application for a new onsite wastewater treatment system (Continued from March 16, 2020)

Location: 6375 Zuma Mesa Drive, not within the appealable coastal zone
APN: 4467-016-011
Owner: Paula Gardner
Case Planner: Assistant Planner Eaton, 456-2489, ext. 273

Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 19-013 for a new onsite wastewater treatment system (OWTS) to replace the existing Cesspool.

5. De Minimis Waiver No. 20-003 — An application for a new onsite wastewater treatment system (Continued from March 16. 2020)

Location: 29848 Harvester Road, not within the appealable coastal zone
APN: 4469-013-032
Owners: Guy and Jana Lynn Blake
Case Planner: Assistant Planner Eaton, 456-2489, ext. 273

Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 20-003 for a new onsite wastewater treatment system (OWTS) to replace the existing OWTS.

6. De Minimis Waiver No. 20-004 — An application for a new onsite wastewater treatment system

Location: 29956 Cuthbert Road, not within the appealable coastal zone
APN: 4469-009-012
Owner: Bonnie B. Bates Living Trust
Case Planner: Planning Technician Coronel, 456-2489, ext. 373

Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 20-004 for a new onsite wastewater treatment system (OWTS) to replace the existing OWTS.

7. Extension of Coastal Development Permit (CDP) No. 13-047 and CDP Amendment No. 15-007 (Continued from March 16, 2020)

Location: 24840 Pacific Coast Highway
APN: 4458-015-019
Owner: Johnson Family Trust
Case Planner: Contract Planner Rudolph, 456-2489, ext. 238

Recommended Action: Continue this item to the April 20, 2020 Regular Planning Commission meeting.

8. Extension of Coastal Development Permit No. 11-019 – A request to extend the Planning Commission's approval of an application for the construction of a new two-story, single-family residence and associated development

Location: 26714 Seagull Way
APN: 4460-022-033
Owner: Armitage Development Group, LLC
Case Planner: Assistant Planning Director Mollica, 456-2489, ext. 346

Recommended Action: Adopt Planning Commission Resolution No. 20-42 granting a one-year extension of Coastal Development Permit No. 11-019,

Variance No. 13-011, and Site Plan Review No. 11-008 for the construction of a new two-story, single-family residence and associated development located in the Single-Family Medium Density zoning district at 26714 Seagull Way (Armitage Development Group, LLC).

9. Administrative Coastal Development Permit (ACDP) Amendment No. 17-014 – An amendment to amend ACDP 13-014, an application for the construction of a two-story, single-family residence, detached accessory structures and associated development

Location: 28465 Via Acero Street, not within the appealable coastal zone
APN: 4467-033-014
Owner: Thilo Kuther
Case Planner: Principal Planner Fernandez, 456-2489, ext. 482

Recommended Action: Receive and file the Planning Director's report on the approval of Administrative Coastal Development Permit Amendment No. 17-014.

4. Continued Public Hearings

A. Coastal Development Permit No. 17-118, Variance Nos. 20-004 and 20-005, and Demolition Permit No. 20-005 – An application for the installation of a new wastewater treatment system and recycled water plant (Continued from March 30, 2020)

Location: 28128 Pacific Coast Highway
APNs: 4466-001-004 and 4466-001-005
Owner: Paradise Cove Land Company, LLC
Case Planner: Contract Planner Rudolph, 456-2489, ext. 238

Recommended Action: Continue this item to the April 20, 2020 Regular Planning Commission meeting.

B. Local Coastal Program Amendment No. 18-002 and Zoning Text Amendment No. 18-004 - An Amendment to the Local Coastal Program and Malibu Municipal Code Title 17 (Zoning) to Update Accessory Dwelling Unit Regulations (Continued from March 16, 2020)

Applicant: City of Malibu
Location: Citywide
Case Planner: Planning Director Blue, 456-2489, ext. 258

Recommended Action: Continue this item to a date uncertain.

C. Local Coastal Program Amendment No. 19-003 and Zoning Text Amendment No. 19-005 – An amendment to the Local Coastal Program and to Title 17 (Zoning) of the Malibu Municipal Code modifying regulations pertaining to the rental of residential units for 30 days or less (Short-Term Rentals) to require the presence of an on-site host during short-term rental, and other restrictions (Continued from March 30, 2020)

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Assistant Planner Kendall, 456-2489, ext. 301

Recommended Action: Continue this item to a date uncertain.

D. Coastal Development Permit No. 20-011 – An application to implement a parking management plan though installation of regulatory signage with staggered overnight parking limitations on both side of Pacific Coast Highway in the Malibu Pier area (Continued from March 16, 2020)

Location:	Within the Public Right-of-Way of Pacific Coast Highway between the west boundary of Sweetwater Canyon Road to the west boundary of the crosswalk at the Malibu Pier
Owner:	California Department of Transportation (Caltrans)
Case Planner:	Planning Director Blue, 456-2489, ext. 258

Recommended Action: Continue this item to a date uncertain.

E. Coastal Development Permit No. 15-069, Site Plan Review No. 15-057 and, Demolition Permit No. 20-004 – An application to for the demolition of an existing single-family residence, the construction of a new single-family residence, and exterior site improvements (Continued from March 16, 2020)

Location:	29140 Cliffside Drive, within the appealable coastal zone
APN:	4468-001-005
Applicant / Owner:	Setara Limited
Case Planner:	Associate Planner Thompson, 456-2489, ext. 280

Recommended Action: Continue this item to the May 4, 2020 Regular Planning Commission meeting.

F. Administrative Plan Review No. 19-143, Variance Nos. 19-041 and 19-042, and Site Plan Review Nos. 19-087 and 19-088 – An application for a new four-car garage and driveway for an existing single-family residence (Continued from March 16, 2020)

Location:	3556 Sweetwater Mesa Road
APN:	4452-017-008
Owner:	Michael Thomson
Case Planner:	Assistant Planner Eng, 456-2489, ext. 372

Recommended Action: Continue this item to a date uncertain.

G. Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 19-003 – An application to demolish an existing single-family residence and associated development and construct a new single-family residence and associated development (Continued from March 16, 2020)

Location:	23325 Malibu Colony Drive, within the appealable coastal zone
APN:	4452-010-017
Owner:	Axel 23324, LLC
Case Planner:	Associate Planner Brooks, 456-2489, ext. 276

Recommended Action: Continue this item to a date uncertain.

H. Coastal Development Permit No. 18-004, Tentative Parcel Map No. 18-001, Site Plan Review No. 18-004, and Demolition Permit No. 18-006 – An application for a tentative parcel map to subdivide a parcel into two lots, and construction of a new single-family residence and associated development (Continued from March 16, 2020)

Location:	29200 Larkspur Lane, within the appealable coastal zone
APN:	4468-008-001 (Lot A)
Owner:	29200 Larkspur, LLC
Case Planner:	Principal Planner Fernandez, 456-2489, ext. 482

Recommended Action: Continue this item to a date uncertain.

I. Coastal Development Permit No. 18-005, Site Plan Review No. 18-005, and Minor Modification No. 18-005 – Construction of a new single-family residence and associated development (Continued from March 16, 2020)

Location:	29200 Larkspur Lane, within the appealable coastal zone
APN:	4468-008-001 (Lot B)
Owner:	29200 Larkspur, LLC
Case Planner:	Principal Planner Fernandez, 456-2489, ext. 482

Recommended Action: Continue this item to a date uncertain.

5. New Public Hearings

A. Coastal Development Permit - Woolsey Fire No. 19-004, Site Plan Review Nos. 19-102 and19-126, and Minor Modification No. 19-014 – An application for the construction of a new single-family residence and associated development to replace development lost in the Woolsey Fire

Location:	30130 Cuthbert Road, not within the appealable coastal zone
APN:	4469-044-003
Owner:	The Graulich Family Trust
Case Planner:	Associate Planner Kendall, 456-2489, ext. 301

Recommended Action: Adopt Planning Commission Resolution No. 20-37 determining that the project is categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit – Woolsey Fire No. 19-004 to allow for the

construction of a new 5,932 square-foot, 24 foot tall, two-story single-family residence and associated development including an 832 square-foot attached garage, 718 detached square-foot second unit, after-the-fact hardscaping and sport court with fencing, landscape, hardscape, and retaining walls; grading; and installation of a new onsite wastewater treatment system, including Site Plan Review No. 19-102 for construction of the residence over 18 feet in height, SPR No. 19-126 for construction on slopes between 3 to 1 and 2.5 to 1, and Minor Modification No. 19-014 for a 50 percent reduction of the front yard setback to replace a home destroyed in the 2018 Woolsey Fire, located in the Rural Residential–Two Acre zoning district at 30130 Cuthbert Road (The Graulich Family Trust).

B. Coastal Development Permit No. 14-073, Variance Nos. 18-002, 18-003, 18-004, 18-008, 18-009, and 18-010, and Minor Modification No. 18-001 – An application for a new single-family residence and associated development

Location:	33386 Pacific Coast Highway, within the appealable coastal zone
APN:	4473-019-007
Applicant / Owner:	180 PCH, LLC
Case Planner:	Assistant Planning Director Mollica, 456-2489, ext. 346

Recommended Action: Continue this item to a date uncertain.

C. Coastal Development Permit No. 14-072, Lot Line Adjustment No. 14-004, Lot Merger No. 17-007, Variance Nos. 17-050, 17-051, 18-001, 18-005, 18-006, and 18-015 – An application for a new single-family residence, associated development, lot merger, and lot line adjustment

Locations:	33398 and 33390 Pacific Coast Highway, within the appealable coastal zone
APNs:	4473-019-005 and 4473-019-006
Applicant / Owner:	180 PCH, LLC
Case Planner:	Assistant Planning Director Mollica, 456-2489, ext. 346

Recommended Action: Continue this item to a date uncertain.

6. Old Business

None.

7. New Business

None.

8. Planning Commission Items

None.

Adjournment

Future Planning Commission Meetings

Monday, April 20, 2020	6:30 pm	Regular Planning Commission Meeting	To be Determined
Monday, May 4, 2020	6:30 pm	Regular Planning Commission Meeting	To be Determined
Monday, May 18, 2020	6:30 p.m.	Regular Planning Commission Meeting	To be Determined

Guide to Planning Commission Proceedings

As a result of the COVID-19 pandemic, the City is under a state of local emergency, as well as states of emergency that have been declared in the County of Los Angeles, state of California, and a federal emergency declared by the President of the United States. At the direction of the Governor, starting March 19, 2020, the entire state is subject to stay-at-home orders. On March 21, the County of Los Angeles Public Health Officer issued a revised Safer at Home Order. These measures are imposed to reduce the risk of spreading COVID-19. To comply with these emergency measures, the Planning Commission meeting will be open and public but is being held via teleconference only. This way the public, staff, and Commission will not be physically in the same place. The City is endeavoring to employ technology that will allow the public to view the meeting live and participate.

Members of the public are encouraged to submit written correspondence to planningcommission@malibucity.org for any item on which they would like to comment. Public participation through electronic or telephonic means will be allowed consistent with the following (details on how to participate telephonically or electronically will be available in an amended agenda at malibucity.org/agendacenter.)

The Oral Communication portion of the agenda is for members of the public to present items which are not listed on the agenda, but are under the subject matter jurisdiction of the Planning Commission. No action may be taken under, except to direct staff, unless the Commission, by a two-thirds vote, determines that there is a need to take immediate action and that need came to the attention of the City after the posting of the agenda. Although no action may be taken, the Commission and staff will follow up at an appropriate time on those items needing response. Each speaker is limited to three (3) minutes.

Items in Consent Calendar Section A have already been considered by the Commission at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Commission. If discussion is desired, an item may be removed from the Consent Calendar for individual consideration. Commissioners may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from the Consent Calendar will be taken up by the Commission following the action on the Consent Calendar. The Commission first will take up the items for which public speaker requests have been submitted. Public speakers shall follow the rules as set forth under Oral Communication.

For Public Hearings involving zoning matters, the appellant and applicant will be given 15 minutes each to present their position to the Planning Commission, including rebuttal time. All other testimony shall follow the rules as set forth under Oral Communication.

Old Business items have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Each speaker is limited to three (3) minutes.

Items in New Business are items which are appearing for the first time for formal action. Each speaker is limited to three (3) minutes.

Planning Commission Items are items which individual members of the Planning Commission may bring up for action, to propose future agenda items, or to suggest future staff assignments. No new items will be taken-up after 10:30 p.m. Not later than 10:15 p.m. at each meeting, the Commission shall determine the disposition of its remaining agenda items. If the Commission determines that remaining agenda items must be continued to a subsequent regular meeting, the Commission shall immediately take action to schedule such meeting. Each meeting of the Planning Commission shall adjourn or be continued to a time and date certain before midnight of the night that meeting began.

Planning Commission meetings are aired live and replayed on City of Malibu Government Access Channel 3 and on the City's website at www.malibucity.org.

Copies of the staff reports or other written documentation relating to each item listed above are available electronically from the office of the Planning Department via email request sent to psalazar@malibucity.org.

The City Hall telephone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Environmental Sustainability Director Yolanda Bundy at (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II].

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. Regular and Adjourned Regular meeting agendas may be amended up to 72 hours in advance of the meeting. Dated this 27th day of March 2020 at 3:00 p.m.

Patricia Salazar, Senior Administrative Analyst

This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order (revised March 21, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

HOW TO VIEW THE MEETING: No physical location will be provided from which members of the public may observe the meeting and offer public comment. The meeting will instead be live streamed at https://malibucity.org/video and https://malibucity.org/VirtualMeeting. These links should be utilized by anyone that wishes to view the meeting live, but not participate by speaking during the course of the meeting.

HOW TO PARTICIPATE IN THE MEETING: Written comments may be submitted to the Planning Commission before the meeting begins and should be submitted to planningcommission@malibucity.org. The public may also speak during the meeting by signing up to speak at https://malibucity.org/VirtualMeeting and selecting the appropriate option.

Amended[1] Malibu Planning Commission
Adjourned Regular Meeting Agenda
(to be held during COVID-19 emergency)

Monday, April 6, 2020

6:30 P.M – ADJOURNED REGULAR PLANNING COMMISSION MEETING
Various Teleconference Locations

YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT
MALIBUCITY.ORG/VIDEO
MALIBUCITY.ORG/VIRTUALMEETING

Call to Order – Chair

Roll Call – Recording Secretary

Approval of Agenda

Report on Posting of Agenda – March 27, 2020; *Amended Agenda Posted on April 3, 2020*

1. Ceremonials / Presentations

A. Update on Planning Department's Operations During COVID-19 Emergency Declaration

B. Staff Update on the Woolsey Fire Rebuild Process

2. Written and Oral Communication from the Public

[1] The agenda has been amended to reflect how members of the public may view and participate in the meeting. *Italicized* portions of this agenda reflect amended language.

A. Communications from the Public concerning matters which are not on the agenda but for which the Planning Commission has subject jurisdiction. The Planning Commission may not act on these matters except to refer the matters to staff or schedule the matters for a future agenda.

B. Planning Commission and staff comments and inquiries

3. Consent Calendar

A. Previously Discussed Items

None.

B. New Items

1. Approval of Minutes

Recommended Action: Approve the minutes for the February 18, 2020 Regular Planning Commission meeting.

Staff contact: Planning Director Blue, 456-2489, ext. 258

2. Formula Retail Clearance No. 20-001 – Malibu Country Mart Shopping Center (Continued from March 16, 2020)

Location: 3835 Cross Creek Road, Unit C
APN: 4458-020-014
Owner: 3835 Cross Creek, LLC
Tenant: Seed Heritage
Case Planner: Associate Planner Thompson, 456-2489, ext. 280

Recommended Action: Receive and file.

3. De Minimis Waiver No. 19-010— An application for a new onsite wastewater treatment system (Continued from March 16, 2020)

Location: 29851 Harvester Road, not within the appealable coastal zone
APN: 4469-010-025
Owner: Vue Ventures, Inc.
Case Planner: Associate Planner Thompson, 456-2489, ext. 280

Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 19-010 for a new onsite wastewater treatment system (OWTS) to replace the existing OWTS.

4. De Minimis Waiver No. 19-013 — An application for a new onsite wastewater treatment system (Continued from March 16, 2020)

   Location: 6375 Zuma Mesa Drive, not within the appealable coastal zone
   APN: 4467-016-011
   Owner: Paula Gardner
   Case Planner: Assistant Planner Eaton, 456-2489, ext. 273
   Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 19-013 for a new onsite wastewater treatment system (OWTS) to replace the existing Cesspool.

5. De Minimis Waiver No. 20-003 — An application for a new onsite wastewater treatment system (Continued from March 16. 2020)

   Location: 29848 Harvester Road, not within the appealable coastal zone
   APN: 4469-013-032
   Owners: Guy and Jana Lynn Blake
   Case Planner: Assistant Planner Eaton, 456-2489, ext. 273

   Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 20-003 for a new onsite wastewater treatment system (OWTS) to replace the existing OWTS.

6. De Minimis Waiver No. 20-004 — An application for a new onsite wastewater treatment system

   Location: 29956 Cuthbert Road, not within the appealable coastal zone
   APN: 4469-009-012
   Owner: Bonnie B. Bates Living Trust
   Case Planner: Planning Technician Coronel, 456-2489, ext. 373

   Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 20-004 for a new onsite wastewater treatment system (OWTS) to replace the existing OWTS.

7. Extension of Coastal Development Permit (CDP) No. 13-047 and CDP Amendment No. 15-007 (Continued from March 16, 2020)

   Location: 24840 Pacific Coast Highway
   APN: 4458-015-019
   Owner: Johnson Family Trust
   Case Planner: Contract Planner Rudolph, 456-2489, ext. 238

   Recommended Action: Continue this item to the April 20, 2020 Regular Planning Commission meeting.

8. Extension of Coastal Development Permit No. 11-019 – A request to extend the Planning Commission's approval of an application for the construction of a new two-story, single-family residence and associated development

Location: 26714 Seagull Way
APN: 4460-022-033
Owner: Armitage Development Group, LLC
Case Planner: Assistant Planning Director Mollica, 456-2489, ext. 346

Recommended Action: Adopt Planning Commission Resolution No. 20-42 granting a one-year extension of Coastal Development Permit No. 11-019, Variance No. 13-011, and Site Plan Review No. 11-008 for the construction of a new two-story, single-family residence and associated development located in the Single-Family Medium Density zoning district at 26714 Seagull Way (Armitage Development Group, LLC).

9. Administrative Coastal Development Permit (ACDP) Amendment No. 17-014 – An amendment to amend ACDP 13-014, an application for the construction of a two-story, single-family residence, detached accessory structures and associated development

Location: 28465 Via Acero Street, not within the appealable coastal zone
APN: 4467-033-014
Owner: Thilo Kuther
Case Planner: Principal Planner Fernandez, 456-2489, ext. 482

Recommended Action: Receive and file the Planning Director's report on the approval of Administrative Coastal Development Permit Amendment No. 17-014.

4. Continued Public Hearings

A. Coastal Development Permit No. 17-118, Variance Nos. 20-004 and 20-005, and Demolition Permit No. 20-005 – An application for the installation of a new wastewater treatment system and recycled water plant (Continued from March 30, 2020)

Location: 28128 Pacific Coast Highway
APNs: 4466-001-004 and 4466-001-005
Owner: Paradise Cove Land Company, LLC
Case Planner: Contract Planner Rudolph, 456-2489, ext. 238

Recommended Action: Continue this item to the April 20, 2020 Regular Planning Commission meeting.

B. Local Coastal Program Amendment No. 18-002 and Zoning Text Amendment No. 18-004 - An Amendment to the Local Coastal Program and Malibu Municipal Code Title 17 (Zoning) to Update Accessory Dwelling Unit Regulations (Continued from March 16, 2020)

Applicant: City of Malibu
Location: Citywide
Case Planner: Planning Director Blue, 456-2489, ext. 258

Recommended Action: Continue this item to a date uncertain.

C. Local Coastal Program Amendment No. 19-003 and Zoning Text Amendment No. 19-005 – An amendment to the Local Coastal Program and to Title 17 (Zoning) of the Malibu Municipal Code modifying regulations pertaining to the rental of residential units for 30 days or less (Short-Term Rentals) to require the presence of an on-site host during short-term rental, and other restrictions (Continued from March 30, 2020)

Applicant: City of Malibu
Location: Citywide
Case Planner: Assistant Planner Kendall, 456-2489, ext. 301

Recommended Action: Continue this item to a date uncertain.

D. Coastal Development Permit No. 20-011 – An application to implement a parking management plan though installation of regulatory signage with staggered overnight parking limitations on both side of Pacific Coast Highway in the Malibu Pier area (Continued from March 16, 2020)

Location: Within the Public Right-of-Way of Pacific Coast Highway between the west boundary of Sweetwater Canyon Road to the west boundary of the crosswalk at the Malibu Pier
Owner: California Department of Transportation (Caltrans)
Case Planner: Planning Director Blue, 456-2489, ext. 258

Recommended Action: Continue this item to a date uncertain.

E. Coastal Development Permit No. 15-069, Site Plan Review No. 15-057 and, Demolition Permit No. 20-004 – An application to for the demolition of an existing single-family residence, the construction of a new single-family residence, and exterior site improvements (Continued from March 16, 2020)

Location: 29140 Cliffside Drive, within the appealable coastal zone
APN: 4468-001-005
Applicant / Owner: Setara Limited
Case Planner: Associate Planner Thompson, 456-2489, ext. 280

Recommended Action: Continue this item to the May 4, 2020 Regular Planning Commission meeting.

F. Administrative Plan Review No. 19-143, Variance Nos. 19-041 and 19-042, and Site Plan Review Nos. 19-087 and 19-088 – An application for a new four-car garage and driveway for an existing single-family residence (Continued from March 16, 2020)

Location:	3556 Sweetwater Mesa Road
APN:	4452-017-008
Owner:	Michael Thomson
Case Planner:	Assistant Planner Eng, 456-2489, ext. 372

Recommended Action: Continue this item to a date uncertain.

G. Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 19-003 – An application to demolish an existing single-family residence and associated development and construct a new single-family residence and associated development (Continued from March 16, 2020)

Location:	23325 Malibu Colony Drive, within the appealable coastal zone
APN:	4452-010-017
Owner:	Axel 23324, LLC
Case Planner:	Associate Planner Brooks, 456-2489, ext. 276

Recommended Action: Continue this item to a date uncertain.

H. Coastal Development Permit No. 18-004, Tentative Parcel Map No. 18-001, Site Plan Review No. 18-004, and Demolition Permit No. 18-006 – An application for a tentative parcel map to subdivide a parcel into two lots, and construction of a new single-family residence and associated development (Continued from March 16, 2020)

Location:	29200 Larkspur Lane, within the appealable coastal zone
APN:	4468-008-001 (Lot A)
Owner:	29200 Larkspur, LLC
Case Planner:	Principal Planner Fernandez, 456-2489, ext. 482

Recommended Action: Continue this item to a date uncertain.

I. Coastal Development Permit No. 18-005, Site Plan Review No. 18-005, and Minor Modification No. 18-005 – Construction of a new single-family residence and associated development (Continued from March 16, 2020)

Location:	29200 Larkspur Lane, within the appealable coastal zone
APN:	4468-008-001 (Lot B)
Owner:	29200 Larkspur, LLC
Case Planner:	Principal Planner Fernandez, 456-2489, ext. 482

Recommended Action: Continue this item to a date uncertain.

5. New Public Hearings

A. Coastal Development Permit - Woolsey Fire No. 19-004, Site Plan Review Nos. 19-102 and19-126, and Minor Modification No. 19-014 – An application for the construction of a new single-family residence and associated development to replace development lost in the Woolsey Fire

Location:	30130 Cuthbert Road, not within the appealable coastal zone
APN:	4469-044-003
Owner:	The Graulich Family Trust
Case Planner:	Associate Planner Kendall, 456-2489, ext. 301

Recommended Action: Adopt Planning Commission Resolution No. 20-37 determining that the project is categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit – Woolsey Fire No. 19-004 to allow for the construction of a new 5,932 square-foot, 24 foot tall, two-story single-family residence and associated development including an 832 square-foot attached garage, 718 detached square-foot second unit, after-the-fact hardscaping and sport court with fencing, landscape, hardscape, and retaining walls; grading; and installation of a new onsite wastewater treatment system, including Site Plan Review No. 19-102 for construction of the residence over 18 feet in height, SPR No. 19-126 for construction on slopes between 3 to 1 and 2.5 to 1, and Minor Modification No. 19-014 for a 50 percent reduction of the front yard setback to replace a home destroyed in the 2018 Woolsey Fire, located in the Rural Residential–Two Acre zoning district at 30130 Cuthbert Road (The Graulich Family Trust).

B. Coastal Development Permit No. 14-073, Variance Nos. 18-002, 18-003, 18-004, 18-008, 18-009, and 18-010, and Minor Modification No. 18-001 – An application for a new single-family residence and associated development

Location:	33386 Pacific Coast Highway, within the appealable coastal zone
APN:	4473-019-007
Applicant / Owner:	180 PCH, LLC
Case Planner:	Assistant Planning Director Mollica, 456-2489, ext. 346

Recommended Action: Continue this item to a date uncertain.

C. Coastal Development Permit No. 14-072, Lot Line Adjustment No. 14-004, Lot Merger No. 17-007, Variance Nos. 17-050, 17-051, 18-001, 18-005, 18-006, and 18-015 – An application for a new single-family residence, associated development, lot merger, and lot line adjustment

Locations:	33398 and 33390 Pacific Coast Highway, within the appealable coastal zone
APNs:	4473-019-005 and 4473-019-006
Applicant / Owner:	180 PCH, LLC
Case Planner:	Assistant Planning Director Mollica, 456-2489, ext. 346

Recommended Action: Continue this item to a date uncertain.

6. Old Business

None.

7. New Business

None.

8. Planning Commission Items

None.

Adjournment

Future Planning Commission Meetings

Monday, April 20, 2020	6:30 pm	Regular Planning Commission Meeting	To be Determined
Monday, May 4, 2020	6:30 pm	Regular Planning Commission Meeting	To be Determined
Monday, May 18, 2020	6:30 p.m.	Regular Planning Commission Meeting	To be Determined

Guide to Planning Commission Proceedings

As a result of the COVID-19 pandemic, the City is under a state of local emergency, as well as states of emergency that have been declared in the County of Los Angeles, state of California, and a federal emergency declared by the President of the United States. At the direction of the Governor, starting March 19, 2020, the entire state is subject to stay-at-home orders. On March 21, the County of Los Angeles Public Health Officer issued a revised Safer at Home Order. These measures are imposed to reduce the risk of spreading COVID-19. To comply with these emergency measures, the Planning Commission meeting will be open and public but is being held via teleconference only. This way the public, staff, and Commission will not be physically in the same place. The City is endeavoring to employ technology that will allow the public to view the meeting live and participate.

Members of the public are encouraged to submit written correspondence to planningcommission@malibucity.org for any item on which they would like to comment. ***Public participation through electronic will be allowed consistent with the following. See page 1 of this agenda for details on how to participate.***

The Oral Communication portion of the agenda is for members of the public to present items which are not listed on the agenda, but are under the subject matter jurisdiction of the Planning Commission. No action may be taken under, except to direct staff, unless the Commission, by a two-thirds vote, determines that there is a need to take immediate action and that need came to the attention of the City after the posting of the agenda. Although no action may be taken, the Commission and staff will follow up at an appropriate time on those items needing response. Each speaker is limited to three (3) minutes.

Items in Consent Calendar Section A have already been considered by the Commission at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Commission. If discussion is desired, an item may be removed from the Consent Calendar for individual consideration. Commissioners may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from the Consent Calendar will be taken up by the Commission following the action on the Consent Calendar. The Commission first will take up the items for which public speaker requests have been submitted. Public speakers shall follow the rules as set forth under Oral Communication.

For Public Hearings involving zoning matters, the appellant and applicant will be given 15 minutes each to present their position to the Planning Commission, including rebuttal time. All other testimony shall follow the rules as set forth under Oral Communication.

Old Business items have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Each speaker is limited to three (3) minutes.

Items in New Business are items which are appearing for the first time for formal action. Each speaker is limited to three (3) minutes.

Planning Commission Items are items which individual members of the Planning Commission may bring up for action, to propose future agenda items, or to suggest future staff assignments. No new items will be taken-up after 10:30 p.m. Not later than 10:15 p.m. at each meeting, the Commission shall determine the disposition of its remaining agenda items. If the Commission determines that remaining agenda items must be continued to a subsequent regular meeting, the Commission shall immediately take action to schedule such meeting. Each meeting of the Planning Commission shall adjourn or be continued to a time and date certain before midnight of the night that meeting began.

Planning Commission meetings are aired live and replayed on City of Malibu Government Access Channel 3 and on the City's website at www.malibucity.org.

Copies of the staff reports or other written documentation relating to each item listed above are available electronically from the office of the Planning Department via email request sent to psalazar@malibucity.org.

The City Hall telephone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Environmental Sustainability Director Yolanda Bundy at (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II].

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. Regular and Adjourned Regular meeting agendas may be amended up to 72 hours in advance of the meeting. Dated this 3rd day of April at 5:30 p.m.

Patricia Salazar, Senior Administrative Analyst

Commission Agenda Report

Planning Commission
Adjourned Meeting
04-06-20
Item 4.C.

To: Chair Jennings and Members of the Planning Commission

Prepared by: Justine Kendall, Associate Planner

Approved by: Bonnie Blue, Planning Director

Date prepared: March 26, 2020 Meeting date: April 6, 2020

Subject: Local Coastal Program Amendment No. 19-003 and Zoning Text Amendment No. 19-005 – An amendment to the Local Coastal Program and to Title 17 (Zoning) of the Malibu Municipal Code modifying regulations pertaining to the rental of residential units for 30 days or less (Short-Term Rentals) to require the presence of an on-site host during short-term rental, and other restrictions (Continued from March 30, 2020)

Applicant: City of Malibu
Location: Citywide

RECOMMENDED ACTION: Continue this item to a date uncertain.

MINUTES
MALIBU PLANNING COMMISSION
ADJOURNED REGULAR MEETING
APRIL 6, 2020
TELECONFERENCED – VARIOUS LOCATIONS
6:30 P.M.

The following meeting was held pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

CALL TO ORDER

Chair Jennings called the meeting to order at 6:30 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Chair Jeffrey Jennings; Vice Chair John Mazza; and Commissioners Chris Marx, Steve Uhring, and David Weil

ALSO PRESENT: Trevor Rusin, Assistant City Attorney; Bonnie Blue, Planning Director; Justine Kendall, Associate Planner; Jessica Thompson, Associate Planner; Richard Mollica, Assistant Planning Director; and Patricia Salazar, Senior Administrative Analyst

REPORT ON POSTING OF AGENDA

Senior Administrative Analyst Salazar reported that the agenda for the meeting was properly posted on March 27, 2020, with the amended agenda posted on April 3, 2020.

APPROVAL OF AGENDA

MOTION Chair Jennings moved and Commissioner Uhring seconded a motion to approve the agenda, continuing Item Nos. 3.B.7. and 4.A. to the April 20, 2020 Regular Planning Commission meeting, Item No. 4.E. to the May 4, 2020 Regular Planning Commission meeting, and Item Nos. 4.B., 4.C., 4.D., 4.F., 4.G., 4.H., 4.I., 5.B. and 5.C. to a date uncertain. The question was called and the motion carried unanimously.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Update on Planning Department's Operations During COVID-19 Emergency Declaration

Planning Director Blue provided an update on the Planning Department's operations during the COVID-19 emergency declaration.

B. Staff Update on the Woolsey Fire Rebuild Process

Assistant Planning Director Mollica provided an update on the Woolsey Fire rebuild process.

ITEM 2.A. PUBLIC COMMENTS

Kraig Hill commented that the City's COVID-19 State of Emergency declaration reorganized some internal matters. He stated the Federal response focused on availability of masks and ventilators, but more emphasis should be placed on testing and social distancing. He stated the City should work with the National Council of Mayors to contribute toward a coordinated national-scale response, which could include simultaneous social distancing to minimize time that isolation would be necessary so those who have developed antibodies to the virus can begin to rebuild the economy. He stated a more streamlined City alert system would be desirable, with the information included in the message rather than the alert consisting of links to webpages.

In response to Mr. Hill, Assistant City Attorney Rusin stated the Local State of Emergency declared by the City was put into place to facilitate local action. He stated the City Council would be considering items in the near future that would allow the City to take additional action locally.

ITEM 2.B. COMMISSION / STAFF COMMENT

Commissioner Marx stated the community was recovering from the Woolsey Fire and stated he would like to see the City and the Planning Commission diligently assist in the rebuilding process progressing safely through social distancing during the current COVID-19 pandemic.

Commissioner Uhring encouraged everyone to stay safely at home to prevent the spread of the COVID-19 virus.

In response to Commissioner Uhring, Assistant City Attorney Rusin stated speakers participating in the Zoom teleconference meeting would be audio only, but that video may be an option in the future.

Commissioner Weil stated he was encouraged to see community involvement in projects being considered by the Planning Commission during this challenging time.

Vice Chair Mazza commented that Planning Commission meetings held via Zoom teleconference differed from in-person meetings where visual materials were broadcast and stated additional information would be requested of staff and applicants, if necessary, to make informed decisions on projects.

Chair Jennings stated he found the volume of activity taking place to rebuild the neighborhoods heartening.

Planning Director Blue announced an item to facilitate fee waiver extensions would be considered by the Council on April 13, 2020, via Zoom teleconference. She stated COVID-19 testing would be conducted at City Hall by appointment through Saturday, April 11, 2020.

Chair Jennings stated Malibu Urgent Care was conducting testing as well.

ITEM 3 CONSENT CALENDAR

Item No. 3.B.8. was pulled by Vice Chair Mazza.

MOTION Vice Chair Mazza moved and Commissioner Marx seconded a motion to approve the remainder of the Consent Calendar. The question was called and the motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items
None.

B. New Items

1. Approval of Minutes
Recommended Action: Approve the minutes for the February 18, 2020 Regular Planning Commission meeting.
Staff contact: Planning Director Blue, 456-2489, ext. 258

2. Formula Retail Clearance No. 20-001 – Malibu Country Mart Shopping Center (Continued from March 16, 2020)
Location: 3835 Cross Creek Road, Unit C
APN: 4458-020-014
Owner: 3835 Cross Creek, LLC
Tenant: Seed Heritage
Case Planner: Associate Planner Thompson, 456-2489, ext. 280
Recommended Action: Receive and file.

3. De Minimis Waiver No. 19-010— An application for a new onsite wastewater treatment system (Continued from March 16, 2020)
Location: 29851 Harvester Road, not within the appealable coastal zone APN: 4469-010-025
Owner: Vue Ventures, Inc.
Case Planner: Associate Planner Thompson, 456-2489, ext. 280
Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 19-010 for a new onsite wastewater treatment system (OWTS) to replace the existing OWTS.

4. De Minimis Waiver No. 19-013 — An application for a new onsite wastewater treatment system (Continued from March 16, 2020)
Location: 6375 Zuma Mesa Drive, not within the appealable coastal zone
APN: 4467-016-011
Owner: Paula Gardner
Case Planner: Assistant Planner Eaton, 456-2489, ext. 273

Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 19-013 for a new onsite wastewater treatment system (OWTS) to replace the existing Cesspool.

5. De Minimis Waiver No. 20-003 — An application for a new onsite wastewater treatment system (Continued from March 16, 2020)
   Location: 29848 Harvester Road, not within the appealable coastal zone
   APN: 4469-013-032
   Owners: Guy and Jana Lynn Blake
   Case Planner: Assistant Planner Eaton, 456-2489, ext. 273
   Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 20-003 for a new onsite wastewater treatment system (OWTS) to replace the existing OWTS.

6. De Minimis Waiver No. 20-004 — An application for a new onsite wastewater treatment system
   Location: 29956 Cuthbert Road, not within the appealable coastal zone
   APN: 4469-009-012
   Owner: Bonnie B. Bates Living Trust
   Case Planner: Planning Technician Coronel, 456-2489, ext. 373
   Recommended Action: Receive Planning Director's report on De Minimis Waiver No. 20-004 for a new onsite wastewater treatment system (OWTS) to replace the existing OWTS.

7. Extension of Coastal Development Permit (CDP) No. 13-047 and CDP Amendment No. 15-007 (Continued from March 16, 2020)
   Location: 24840 Pacific Coast Highway
   APN: 4458-015-019
   Owner: Johnson Family Trust
   Case Planner: Contract Planner Rudolph, 456-2489, ext. 238
   Recommended Action: Continue this item to the April 20, 2020 Regular Planning Commission meeting.

9. Administrative Coastal Development Permit (ACDP) Amendment No. 17-014 – An amendment to amend ACDP 13-014, an application for the construction of a two-story, single-family residence, detached accessory structures and associated development
   Location: 28465 Via Acero Street, not within the appealable coastal zone
   APN: 4467-033-014
   Owner: Thilo Kuther
   Case Planner: Principal Planner Fernandez, 456-2489, ext. 482
   Recommended Action: Receive and file the Planning Director's report on the approval of Administrative Coastal Development Permit Amendment No. 17-014.

The following item was pulled from the Consent Calendar for individual consideration:

B. Previously Discussed Items

8. Extension of Coastal Development Permit No. 11-019 – A request to extend the Planning Commission's approval of an application for the construction of a new two-story, single-family residence and associated development
Location: 26714 Seagull Way
APN: 4460-022-033
Owner: Armitage Development Group, LLC
Case Planner: Assistant Planning Director Mollica, 456-2489, ext. 346
Recommended Action: Adopt Planning Commission Resolution No. 20-42 granting a one-year extension of Coastal Development Permit No. 11-019, Variance No. 13-011, and Site Plan Review No. 11-008 for the construction of a new two-story, single-family residence and associated development located in the Single-Family Medium Density zoning district at 26714 Seagull Way (Armitage Development Group, LLC).

Assistant Planning Director Mollica presented the staff report.

The Commission directed questions to staff.

As there were no further questions for staff, Chair Jennings opened public comment.

Speaker: Kraig Hill.

As there were no other speakers present, Chair Jennings closed public comment.

The Commission directed questions to staff.

CONSENSUS By consensus, the Commission received and filed the report from staff indicating the request for extension was unnecessary due to a typographical error that erroneously gave the impression the approval was approaching expiration.

ITEM 4 CONTINUED PUBLIC HEARINGS

A. Coastal Development Permit No. 17-118, Variance Nos. 20-004 and 20-005, and Demolition Permit No. 20-005 – An application for the installation of a new wastewater treatment system and recycled water plant (Continued from March 30, 2020)
Location: 28128 Pacific Coast Highway
APNs: 4466-001-004 and 4466-001-005
Owner: Paradise Cove Land Company, LLC
Case Planner: Planning Director Blue, 456-2489, ext. 258
Recommended Action: Continue this item to the April 20, 2020 Regular Planning Commission meeting.

The item was continued to the April 20, 2020 Regular Planning Commission meeting upon approval of the agenda.

B. Local Coastal Program Amendment No. 18-002 and Zoning Text Amendment No. 18-004 - An Amendment to the Local Coastal Program and Malibu Municipal Code Title 17 (Zoning) to Update Accessory Dwelling Unit Regulations (Continued from March 16, 2020)
Applicant: City of Malibu
Location: Citywide
Case Planner: Planning Director Blue, 456-2489, ext. 258
Recommended Action: Continue this item to a date uncertain.

The item was continued to a date uncertain upon approval of the agenda.

C. Local Coastal Program Amendment No. 19-003 and Zoning Text Amendment No. 19-005 – An amendment to the Local Coastal Program and to Title 17 (Zoning) of the Malibu Municipal Code modifying regulations pertaining to the rental of residential units for 30 days or less (Short-Term Rentals) to require the presence of an on-site host during short-term rental, and other restrictions (Continued from March 30, 2020)
Applicant: City of Malibu
Location: Citywide
Case Planner: Associate Planner Kendall, 456-2489, ext. 301
Recommended Action: Continue this item to a date uncertain.

The item was continued to a date uncertain upon approval of the agenda.

D. Coastal Development Permit No. 20-011 – An application to implement a parking management plan though installation of regulatory signage with staggered overnight parking limitations on both side of Pacific Coast Highway in the Malibu Pier area (Continued from March 16, 2020)
Location: Within the Public Right-of-Way of Pacific Coast Highway between the west boundary of Sweetwater Canyon Road to the west boundary of the crosswalk at the Malibu Pier
Owner: California Department of Transportation (Caltrans)
Case Planner: Planning Director Blue, 456-2489, ext. 258
Recommended Action: Continue this item to a date uncertain.

The item was continued to a date uncertain upon approval of the agenda.

E. Coastal Development Permit No. 15-069, Site Plan Review No. 15-057 and, Demolition Permit No. 20-004 – An application to for the demolition of an existing single-family residence, the construction of a new single-family residence, and exterior site improvements (Continued from March 16, 2020)
Location: 29140 Cliffside Drive, within the appealable coastal zone
APN: 4468-001-005
Applicant / Owner: Setara Limited

Case Planner: Associate Planner Thompson, 456-2489, ext. 280

Recommended Action: Continue this item to the May 4, 2020 Regular Planning Commission meeting.

The item was continued to the May 4, 2020 Regular Planning Commission meeting upon the approval of the agenda.

F. Administrative Plan Review No. 19-143, Variance Nos. 19-041 and 19-042, and Site Plan Review Nos. 19-087 and 19-088 – An application for a new four-car garage and driveway for an existing single-family residence (Continued from March 16, 2020)

Location: 3556 Sweetwater Mesa Road
APN: 4452-017-008
Owner: Michael Thomson
Case Planner: Assistant Planner Eng, 456-2489, ext. 372
Recommended Action: Continue this item to a date uncertain.

The item was continued to a date uncertain upon approval of the agenda.

G. Coastal Development Permit No. 18-035, Variance No. 19-062, and Demolition Permit No. 19-003 – An application to demolish an existing single-family residence and associated development and construct a new single-family residence and associated development (Continued from March 16, 2020)

Location: 23325 Malibu Colony Drive, within the appealable coastal zone
APN: 4452-010-017
Owner: Axel 23324, LLC
Case Planner: Associate Planner Brooks, 456-2489, ext. 276
Recommended Action: Continue this item to a date uncertain.

The item was continued to a date uncertain upon approval of the agenda.

H. Coastal Development Permit No. 18-004, Tentative Parcel Map No. 18-001, Site Plan Review No. 18-004, and Demolition Permit No. 18-006 – An application for a tentative parcel map to subdivide a parcel into two lots, and construction of a new single-family residence and associated development (Continued from March 16, 2020)

Location: 29200 Larkspur Lane, within the appealable coastal zone
APN: 4468-008-001 (Lot A)
Owner: 29200 Larkspur, LLC
Case Planner: Principal Planner Fernandez, 456-2489, ext. 482
Recommended Action: Continue this item to a date uncertain.

The item was continued to a date uncertain upon approval of the agenda.

I. Coastal Development Permit No. 18-005, Site Plan Review No. 18-005, and Minor Modification No. 18-005 – Construction of a new single-family residence and associated development (Continued from March 16, 2020)
Location: 29200 Larkspur Lane, within the appealable coastal zone
APN: 4468-008-001 (Lot B)
Owner: 29200 Larkspur, LLC
Case Planner: Principal Planner Fernandez, 456-2489, ext. 482
Recommended Action: Continue this item to a date uncertain.

The item was continued to a date uncertain upon approval of the agenda.

ITEM 5 NEW PUBLIC HEARINGS

A. Coastal Development Permit - Woolsey Fire No. 19-004, Site Plan Review Nos. 19-102 and19-126, and Minor Modification No. 19-014 – An application for the construction of a new single-family residence and associated development to replace development lost in the Woolsey Fire
Location: 30130 Cuthbert Road, not within the appealable coastal zone
APN: 4469-044-003
Owner: The Graulich Family Trust
Case Planner: Associate Planner Kendall, 456-2489, ext. 301
Recommended Action: Adopt Planning Commission Resolution No. 20-37 determining that the project is categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit – Woolsey Fire No. 19-004 to allow for the construction of a new 5,932 square-foot, 24 foot tall, two-story single-family residence and associated development including an 832 square-foot attached garage, 718 detached square-foot second unit, after-the-fact hardscaping and sport court with fencing, landscape, hardscape, and retaining walls; grading; and installation of a new onsite wastewater treatment system, including Site Plan Review No. 19-102 for construction of the residence over 18 feet in height, SPR No. 19-126 for construction on slopes between 3 to 1 and 2.5 to 1, and Minor Modification No. 19-014 for a 50 percent reduction of the front yard setback to replace a home destroyed in the 2018 Woolsey Fire, located in the Rural Residential–Two Acre zoning district at 30130 Cuthbert Road (The Graulich Family Trust).

Associate Planner Kendall presented the staff report.

Disclosures: Commissioners Marx, Uhring, and Weil, Vice Chair Mazza, and Chair Jennings.

The Commission directed questions to staff.

As there were no further questions for staff, Chair Jennings opened the public comment portion of the public hearing.

Speaker: Lewin Wertheimer, Dana Graulich, and Steven Nichols.

As there were no other speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff.

MOTION Commissioner Weil moved and Commissioner Marx seconded a motion adopt Planning Commission Resolution No. 20-37 determining that the project is categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit – Woolsey Fire No. 19-004 to allow for the construction of a new 5,932 square-foot, 24 foot tall, two-story single-family residence and associated development including an 832 square-foot attached garage, 718 detached square-foot second unit, after-the-fact hardscaping and sport court with fencing, landscape, hardscape, and retaining walls; grading; and installation of a new onsite wastewater treatment system, including Site Plan Review No. 19-102 for construction of the residence over 18 feet in height, SPR No. 19-126 for construction on slopes between 3 to 1 and 2.5 to 1, and Minor Modification No. 19-014 for a 50 percent reduction of the front yard setback to replace a home destroyed in the 2018 Woolsey Fire, located in the Rural Residential–Two Acre zoning district at 30130 Cuthbert Road (The Graulich Family Trust).

The Commission discussed the motion.

The question was called and the motion carried 3-2, Commissioner Marx and Vice Chair Mazza dissenting.

B. Coastal Development Permit No. 14-073, Variance Nos. 18-002, 18-003, 18-004, 18-008, 18-009, and 18-010, and Minor Modification No. 18-001 – An application for a new single-family residence and associated development

Location: 33386 Pacific Coast Highway, within the appealable coastal zone
APN: 4473-019-007
Applicant / Owner: 180 PCH, LLC
Case Planner: Assistant Planning Director Mollica, 456-2489, ext. 346
Recommended Action: Continue this item to a date uncertain.

The item was continued to a date uncertain upon approval of the agenda.

C. Coastal Development Permit No. 14-072, Lot Line Adjustment No. 14-004, Lot Merger No. 17-007, Variance Nos. 17-050, 17-051, 18-001, 18-005, 18-006, and 18-015 – An application for a new single-family residence, associated development, lot merger, and lot line adjustment

Locations: 33398 and 33390 Pacific Coast Highway, within the appealable coastal zone
APNs: 4473-019-005 and 4473-019-006
Applicant / Owner: 180 PCH, LLC
Case Planner: Assistant Planning Director Mollica, 456-2489, ext. 346
Recommended Action: Continue this item to a date uncertain.

The item was continued to a date uncertain upon approval of the agenda.

ITEM 6 OLD BUSINESS

None.

ITEM 7 NEW BUSINESS

None.

ITEM 8 PLANNING COMMISSION ITEMS

None.

ADJOURNMENT

MOTION At 9:07 p.m., Vice Chair Mazza moved and Commissioner Jennings seconded a motion to adjourn the meeting. The question was called and the motion carried unanimously.

Approved and adopted by the Planning Commission of the City of Malibu on July 20, 2020.

JEFFREY JENNINGS, Chair

ATTEST:

KATHLEEN STECKO, Administrative Assistant

This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order (revised July 14, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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 planningcommission@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 by the Chair and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Malibu Planning Commission
Special Meeting Agenda
(to be held during COVID-19 emergency)

Wednesday, July 29, 2020

6:30 P.M. – SPECIAL PLANNING COMMISSION MEETING

Various Teleconference Locations

YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT

MALIBUCITY.ORG/VIDEO

Call to Order - Chair

Roll Call - Recording Secretary

Approval of Agenda

Report on Posting of Agenda – July 16, 2020

1. New Public Hearings

A. Local Coastal Program Amendment No. 19-003 and Zoning Text Amendment No. 19-005 - An Amendment to the Local Coastal Program and Malibu Municipal Code Regulating Short-Term Rentals of Residential Property, Including Requiring an Onsite Host

Applicant: City of Malibu
Location: Citywide

Recommended Action: Adopt Planning Commission Resolution No. 20-35 determining the amendments to be exempt from the California Environmental Quality Act and recommending that the City Council adopt Local Coastal Program Amendment No. 19-003 and Zoning Text Amendment No. 19-005 regulating the rental of residential units for 30 days or less (Short-term Rentals) including but not limited to requiring the presence of an onsite host during certain short-term rentals, and other restrictions, and clarifying permitted uses related to short-term rental (Citywide).

Adjournment

Future Meetings

Monday, August 3, 2020	6:30 p.m.	Regular Planning Commission Meeting	To Be Determined
Monday, August 17, 2020	6:30 p.m.	Regular Planning Commission Meeting	To Be Determined
Tuesday, September 8, 2020	6:30 p.m.	Regular Planning Commission Meeting	To Be Determined

Guide to the Planning Commission Proceedings

As a result of the Coronavirus (COVID-19) pandemic, the City is under a state of local emergency, as well as states of emergency that have been declared in the County of Los Angeles, state of California, and a federal emergency declared by the President of the United States. At the direction of the Governor, starting March 19, 2020, the entire state is subject to stay-at-home orders. These measures are imposed to reduce the risk of spreading COVID-19. To comply with these emergency measures, the Planning Commission meeting will be open and public but conducted via teleconference only. This way the public, the staff, and the Commission will not be physically in the same place.

The Oral Communication portion of the agenda is for members of the public to present items, which are not listed on the agenda but are under the subject matter jurisdiction of the Planning Commission. No action may be taken under, except to direct staff unless the Commission, by a two-thirds vote, determines that there is a need to take immediate action and that need came to the attention of the City after the posting of the agenda. Although no action may be taken, the Commission and staff will follow up, at an appropriate time, on those items needing response. Each speaker is limited to three (3) minutes. Members of the public wishing to speak during the meeting must participate through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Chair and then you must be present in the Zoom conference to be recognized. Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

For Public Hearings involving zoning matters the appellant and applicant will be given 15 minutes each to present their position to the Planning Commission, including rebuttal time. All other testimony shall follow the rules as set forth under Oral Communication. In order to speak, individuals must visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Environmental Sustainability Director Yolanda Bundy, (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II].

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 16th day of July 2020 at 5:00 p.m.

Kathleen Stecko _____

Kathleen Stecko, Administrative Assistant

Commission Agenda Report

Planning Commission
Special Meeting
07-29-20
Item 1.A.

To: Chair Jennings and Members of the Planning Commission

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Approved by: Bonnie Blue, Planning Director

Date prepared: July 15, 2020 Meeting date: July 29, 2020

Subject: Local Coastal Program Amendment No. 19-003 and Zoning Text Amendment No. 19-005 - An Amendment to the Local Coastal Program and Malibu Municipal Code Regulating Short-Term Rentals of Residential Property, Including Requiring an Onsite Host

Applicant: City of Malibu
Location: Citywide

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 20-35 (Attachment 1) determining the amendments to be exempt from the California Environmental Quality Act (CEQA) and recommending that the City Council adopt Local Coastal Program Amendment (LCPA) No. 19-003 and Zoning Text Amendment (ZTA) No. 19-005 regulating the rental of residential units for 30 days or less (Short-term Rentals) including but not limited to requiring the presence of an onsite host during certain short-term rentals, and other restrictions, and clarifying permitted uses related to short-term rental (Citywide).

DISCUSSION: The City has been grappling with short-term rental regulation for several years. On December 3, 2019, City Council considered ZTA No. 17-002, an ordinance to regulate the short-term rental (30 days or less) of residential property, based on extensive Council direction provided at prior public hearings. These hearings occurred after the Planning Commission considered the ZTA at its meetings on November 20, 2017, and May 7, 2018. The Council did not move forward with ZTA No. 17-002 at that time but did initiate a new LCPA and ZTA to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica's ordinance requires the presence of an onsite host within the rented dwelling unit, known as a "home-share" or a "hosted" rental. The City Council's direction was to require an "host" to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included.

Planning staff had calendared and noticed a special meeting of the Planning Commission to be held on March 30, 2020 for consideration of the new LCPA and ZTA. However, due to the rapid spread of the COVID-19 pandemic, on March 12, 2020, the City of Malibu cancelled all commission meetings through April 30 including the March 30, 2020, Planning Commission special meeting.

Pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Order, the City began conducting virtual Planning Commission meetings on April 6, 2020. For the first few months, the City postponed legislative matters in hopes that in-person meetings might continue soon. However, in light of the continuing pandemic and the interest of moving short-term rental legislation forward, on June 8, 2020, Council directed staff to schedule this matter for a Planning Commission virtual meeting for July 2020 without input from the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES).

The full history of the City's consideration of short-term rental regulation can be found on the City's website at malibucity.org/STR.

It should be noted that concurrently with the subject amendments, on June 22, 2020, Council directed staff to return with an update of ZTA No. 17-002 which would put in place a short-term rental permitting system and new regulations to address nuisance issues and impacts on neighborhoods and also attach significant penalties to violations. ZTA No. 17-002, which was previously presented to the Planning Commission, is scheduled to be heard by the Council on August 10, 2020. The subject amendments presented here, if adopted by the Council and certified by the California Coastal Commission (CCC), would supersede ZTA No. 17-002 (if ZTA 17-002 is approved by the City Council).

The Ordinance follows the lead of the City of Santa Monica Homes-share Ordinance[1]

On December 3, 2019, the City Council Adopted Resolution No. 19-53 initiating the subject LCPA and ZTA (Attachment 2), provided guidance to staff and directed that staff a) include a robust definition section, b) analyze and incorporate information from the September 10, 2019 City of Santa Monica home-sharing staff report as well as suggestions submitted by Michael Lustig as appropriate, c) look into platform liability and limitation issues and (d) limit the short-term rental of residential property to home-sharing, except for certain multifamily housing where up to two units could be rented on a short-term basis without home-sharing, so long as the other units in the building were rented on a long-term basis

One of the key features the City Council wanted to borrow from the Santa Monica ordinance is the requirement of an onsite "host" during the rental, which is designed to monitor activity, prevent nuisance issues from arising, and facilitate prompt correction of any problems that develop. Second, the Council wanted to implement Santa Monica's

[1] The Home-Sharing and Vacation Rentals Ordinance was adopted by the City of Santa Monica in September 2019 to amend and revise Chapter 6.20 of the Santa Monica Municipal Code.

system for preventing online platforms from completing transactions for illegal rentals, which has been upheld by the courts.

Staff has conferred with both City of Santa Monica staff and Mr. Lustig about the best way to integrate these, and other, aspects of the Santa Monica ordinance while also addressing conditions that are unique to Malibu. Santa Monica is a charter city with a robust rent control system, different municipal code that uses different terms, larger population, significantly larger and more dense multifamily zones, a greater population of renters, and no LCP, thus significant differences exist between the cities.

The proposed ZTA and LCPA incorporate key features from Santa Monica's ordinance to achieve the City Council's goals but are adapted to fit appropriately into the City of Malibu context. Adaptations of the Santa Monica ordinance for Malibu include:

- Hosted short-term rental vs. home-share - Santa Monica uses the term home-share[2] to refer to short-term rentals in which the host lives in the rented dwelling unit for the duration of the rental. The City Council explicitly stated it wanted an onsite presence during the rental but did not want to require the host to be within the rented unit itself. The proposed amendments use the term "hosted short-term rental" to indicate while the owner or designated operator must live onsite, that person need only live on the property, not in the same dwelling unit, during the rental.

- Owner and designated operator vs. primary resident – Santa Monica's ordinance requires that the primary resident (which can be the owner OR a renter) of the property must live onsite for the duration of the short-term rental. The draft ZTA/LCPA tracks the Council's goal of onsite monitoring but provides limited flexibility by allowing the property owner to assign a "designated operator" to live onsite instead of the owner, so long as the designated operator is authorized to: (1) resolve any nuisance or compliance issues, (2) produce records, and (3) allow code enforcement officers to enter the property.

- Proof of Primary Residency - Santa Monica requires primary residents to submit two forms of documentation to provide proof of primary residency. As part of the City of Malibu's Woolsey Fire Rebuild Fee Waiver program, the City established that applicants can demonstrate primary residency with an active voter registration, a valid driver's license or other government issued identification card. The proposed ordinance is consistent with the primary residence documentation requirements established as part of the City's Fee Waiver Program for fire rebuilds.

- Multifamily Rentals - Council directed that, in contrast to Santa Monica's ordinance, up to two multifamily dwelling units on a property may be rented unhosted so long as the other units on the property are rented on a long-term basis. This system prevents the conversion of multifamily units into unregistered hotels, protects some

[2] The city of Los Angeles uses the term "home-sharing" to refer to all short-term rental of residential property regardless of whether the host is present or not.

of the lowest cost housing in the City, and encourages units to be rented long-term at lower rent as short term rental is only allowed if all other units are at full occupancy.

- Eligible Permit Applicants - The City's proposed ordinance only allows owners of residential or multifamily buildings to apply for short-term rental permits. The City of Santa Monica also allows renters who can provide proof that their primary residence was the unit in question for the prior 12 months to apply for a short-term rental permit

- Parking - The proposed ordinance requires that all vehicles park onsite while a property is being rented on a short-term basis unless a Special Events Permit (SEP) is obtained, or in the rare instance that the property is determined to have no onsite parking (in such cases one vehicle may be parked on the street). Santa Monica has a more permissive parking policy where guests can park on the street one vehicle per bedroom rented or, if the short-term rental is located in a preferential parking zone, only two vehicles can use visitor parking permits.

- Neighborhood Notification - Once a short-term rental permit is issued, the City will provide all neighbors within 500 feet the contact information for the owner or designated operator of the short-term rental so that they can directly contact the onsite host with any concerns that may arise. This is not included in the Santa Monica ordinance.

Proposed LCPA and ZTA

The full text of the proposed amendments can be found as Exhibits A and B to Planning Commission Resolution No. 20-35 (Attachment 1). The amendments address portions of the LCP and of Title 17 (Zoning Ordinance) of the Malibu Municipal Code (MMC).

In general, the amendments propose to create an annual short-term rental permit program to regulate short-term rentals in residential property, minimize impacts on neighborhood character and provide a mechanism to prohibit nuisance rentals. The amendments are designed to address nuisance issues that have developed under the recent expansion of short-term rental activity in the City and protect residential neighborhood character and housing stock availability and variety. Some of the concepts will sound familiar as they have been presented in earlier drafts of the ordinance.

Summary of ZTA

Short-term Rental Permits

The proposed permit program has two distinct short-term rental permit types: one for owners of single-family residences and condominium units to offer hosted short-term rentals, and one for owners of multifamily buildings to offer up to two units as short-term rentals as long as all other units are rented long-term.

- Hosted Short-Term Rental Permit (HSTR permit) - To be eligible for a hosted short-term rental permit, the property must be the owner's primary residence. In addition, the owner must live onsite, meaning maintain a physical presence on the property, including but not limited to, sleeping overnight, preparing and eating meals, each day during the short-term rental of the property. The owner must also be available at all times to resolve any issues with the rented dwelling unit and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel, and must be physically onsite from 8 p.m. until 6 a.m. The owner may authorize a designated operator to perform this function on his or her behalf. "Multifamily"[3] building owners are not eligible for this type of permit.

- Multifamily Short-term Rental Permit (MSTR permit) - Owners of multifamily residential buildings may obtain a multifamily short-term rental permit. This permit would allow the owner to rent up to two units in a multifamily building if all the other units on the property are rented on a long-term basis. Short-term rentals in multifamily buildings do not require the owner or designated operator to live onsite during the rental.

Key requirements include:

- An individual may not possess more than one active short-term rental permit, regardless of type.
- A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented).
- Each permit may include up to two listing. This will allow a property that has two dwelling units (such as a main house and a second unit) to be able to rent either unit on a short-term basis. Either could be used as a hosted short-term rental, with the owner or designated operator living onsite either in the unrented unit or in a bedroom of one of one of the rented units.
- No person may serve as a designated operator for more than one short-term rental.
- Permits must be renewed annually.

Short-term Rental General Requirements

To conduct short-term rentals, owners must comply with all the terms and conditions of the short-term rental program including, but not limited to, the following:

1. Maintain an active permit at all times short-term rentals are conducted
2. Takes responsibility for and actively prevent any nuisance activities that may take place during short-term rentals

[3] "Multifamily residence" means a building or portion thereof used for occupancy by three or more families living independently of each other and containing three or more dwelling units.

3. Be available, or designated operator be available, 24/7 via contact information provided to City and any guest renting the property
4. Collect and remit transient occupancy tax (TOT) as set forth in MMC Chapter 3.24
5. Provide basic health and safety features for guests
6. Limit occupancy based on the number of bedrooms on record in City or County documents as determined by the Planning Director to two people more than twice the number of bedrooms, but no more than 14 unless a special event permit (SEP) is obtained under MMC Chapter 5.34 (example – for a 3 bedroom property – ((3 bedrooms x 2 people) + 2 people) = 8 people max occupancy, including owner/designated operator)
7. Park all vehicles onsite[4] unless an SEP is obtained to allow offsite or on-street parking
8. Maintain liability insurance with minimum limits no less than $500,000
9. Provide guests with the City of Malibu's Short-Term Rental Code of Conduct
10. Provide access to the property and documents upon request by City during business hours or when property is rented
11. Comply with all applicable building, fire and other safety codes including noise limitations
12. Maintain a valid Onsite Wastewater Treatment System (OWTS) operating permit (a compliance agreement option is available for those in the process of upgrading)
13. Follow all rules for advertising short-term rentals
    - o immediately remove any advertisement identified by the City as illegal;
    - o include permit number in all advertisements;
    - o clearly state in all advertisements related to a HSTR permit that the owner or designated operator will live onsite during the rental (except for MSTR permits)
    - o Clearly state parking restrictions and occupancy limits
14. Keep permit application information on file with the City current at all time, especially 24/7 contact information for owner / designated operator

<u>Grounds for Denial and Revocation of Permit</u>

The amendments specify grounds for denial of a permit application or renewal request, and for revocation of a permit. These include:

- Failure to pay TOT
- Outstanding code violations on the property

[4] Properties that do not have onsite parking spaces as determined by the Planning Director may park one vehicle on the street.

- Failure to comply with applicable codes like fire, building safety, etc.
- False statements in relation to the STR permit application
- Application information has not been amended as required
- OWTS requirements have not been met
- Property has received more than two citations for noise ordinance violations in 12 consecutive months
- For HSTR permit holders – 3 citations for other violations of the Short-term Rental Ordinance in 12 consecutive months, for MSTR permit holders – 2 citations in 12 consecutive months

Effect of Permit Revocation or Denial

The amendments also prescribe specific effects on an owner's ability to conduct short-term rentals if the owner's permit is denied or revoked. If an application is denied or a permit is revoked for making false statements on the application, violating Section 17.55.030(A)(9), or violating the City's noise ordinance more than twice within 12 months, a new application cannot be approved for that applicant and location for 12 months after the last violation or short-term rental.

If a property is found to be rented or advertised for short-term rental after permit denial or revocation, the property and applicant will be prohibited from short-term rentals for an additional six months on top of any time periods mentioned above.

An applicant may appeal a denial or revocation decision to the Planning Commission, but no short-term rentals may be conducted while the appeal is pending.

Enforcement

The amendments set forth special tools for enforcement, including a fine of $1,000 per day or violation, for every day the violation persists.

The amendments also clarify explicitly that offering or allowing short-term rental of any location not approved for use as a dwelling unit, including but not limited to any vehicle, trailer, tent, storage shed or garage, is prohibited.

Summary of Proposed LCPA

The LCP consists of a Land Use Plan (LUP) and a Local Implementation Plan (LIP). The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP contains provisions and standards to carry out the policies of the LUP. Any development proposed in the City must first obtain a coastal development permit unless the LCP provides for an exemption.

The LCPA memorializes that short-term rental use is allowed in residential zones, as it currently is, but only if it is hosted and conducted pursuant to a valid permit. It also memorializes that up to two units on multifamily parcels may be rented unhosted on a short term basis, but again only pursuant to a valid permit The permitting requirements will allow the City to better control nuisance issues and avoid the proliferation of short-term rental businesses in which corporations and other entities buy up residences to use solely for vacation rentals. For the zoning district purpose policies, the LCPA specifies that hosted short-term rentals are allowed in single-family zones, and that only two dwelling units per multifamily parcel may be used for short-term rental in multifamily zones.

In the LIP, definitions have been added to LIP Section 2.1 to address short-term rental terms. Table B – Permitted Uses has been updated to add hosted and multifamily short-term rental uses, subject to a valid short-term rental permit. And finally, language specifying a coastal development permit exemption for short-term rental use subject to certain criteria has been added to LIP Section 13.4.

Because the detailed permitting regulations are contained in the ZTA and may need to be adjusted from time to time, they are not repeated in detail in the LCPA.

Current Market Landscape

The City currently contracts with Host Compliance (Host) to monitor STR listings online. According to Host, there were 446 properties in or near Malibu advertised for short-term rental as of July 2, 2020.

Platform Liability and Limitation Issues

To better enforce local regulations, San Francisco and Santa Monica adopted ordinances that imposed legal liability on platforms for publishing listings of potentially illegal rentals. These ordinances held platforms criminally and civilly liable for facilitating (including advertising) any unauthorized rental activity. The platforms sued under the federal Communications Decency Act (CDA). The CDA provides that an online service provider may not be treated as “the publisher” of information furnished by a third-party content provider and immunizes platforms from liability under any inconsistent state or local law.

In response, San Francisco and Santa Monica amended their ordinances. Santa Monica’s amended ordinance provides that platforms may not complete “booking transactions” for unlicensed STRs, but no longer imposes liability on platforms for publishing advertisements. The platforms again sued, and on March 13, 2019, the Ninth Circuit Court of Appeal upheld Santa Monica’s amended ordinance. In HomeAway.com, Inc. v. City of Santa Monica, the court found that Santa Monica’s STR regulations did not require companies to monitor or edit the content of any listings provided by hosts and thus did not regulate “publication” activities within the meaning of the CDA.

Ordinances that require platforms to disclose transaction information about rentals for code enforcement purposes have also faced legal challenge, particularly under the Stored Communications Act (SCA). The SCA limits the government's ability to compel the disclosure of consumer information from internet service providers. Absent platforms' consent, courts have held that cities may only require companies to disclose transaction records by means of a subpoena (or similar legal process) that is narrowly designed to identify illegal activity and affords platforms a meaningful opportunity to challenge the reasonableness of the requested information.

Accessory Dwelling Units

In general, an Accessory Dwelling Unit (ADU) is a smaller, independent residential dwelling unit that is ancillary to a residence that is the primary use on the property. The State has passed a series of laws to increase the amount and accelerate the production of affordable housing. In Malibu, ADUs, currently known in Malibu codes as "second units," are a significant source of affordable housing. State law now includes limitations on use of ADUs for short-term rental. The City is in the process of updating the LCP and MMC to address recent changes in State law. Staff was scheduled to present updated recommendations to amend the LCP and MMC in March of 2020 but has been delayed due to the COVID-19 pandemic. Staff will bring updated draft ADU amendments for Commission consideration in the near future, at which time the short-term rental of ADUs will be addressed. For information on the City's ADU amendments, visit malibucity.org/ADU.

Limits on Large Gatherings

The City of Malibu has a special event permit (SEP) system in place to regulate special events in residential neighborhoods. The system is designed to allow occasional large events while preserving the predominately residential character of the neighborhood. A SEP is always required when 15 or more people are anticipated to be in attendance during a short-term rental. This ties with the maximum occupancy limits set forth in the proposed ordinance.

Short-Term Rental Permit Fees

The short-term rental permit fee will be considered as part of the budget process prior to the final adoption of the LCPA.

Next Steps

After the Planning Commission public hearing on the draft amendments, the Commission's recommendation and the draft LCPA and ZTA will be presented to City Council for consideration. If approved by the Council, the LCPA will then be submitted to CCC for certification.

Upon final certification of the amendment, and likely starting before, the City will conduct an extensive public outreach program to notify property owners of the policy changes, followed by coordination with Host Compliance or another vendor, Code Enforcement and the Sheriff's Department to implement and enforce the new ordinance.

Administration and Code Enforcement

Prior to the final LCPA adoption, the City will ensure that it has the appropriate consultant support and personnel necessary to administer and enforce the new requirements including the onsite host and multifamily provisions.

The City currently has a contract with Host Compliance to monitor short-term rentals in Malibu across over 50 rental booking internet platforms. Once the LCPA and ZTA are in effect, staff will work with Host Compliance or another contract provider to monitor online compliance with the adopted regulations, process permit applications through an online portal, operate a short-term rental hotline for residents to report violations and administer TOT collection. Planning and Administrative Services staff will implement and administer the STR permitting program. Code Enforcement staff in cooperation with the Sheriff will investigate complaints, and issue warnings and citations and work to resolve violations. Additional enforcement including short-term rental sting operations may be necessary to ensure compliance with all regulations.

ENVIRONMENTAL REVIEW: Pursuant to Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. Furthermore, the Planning Department has analyzed the project proposal described herein. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Department determined that there is no possibility the amendment will have a significant effect on the environment within the meaning of CEQA and accordingly, the exemption set forth in Section 15061(b)(3) applies.

CORRESPONDENCE: Public correspondence has been received and is included as Attachment 3.

PUBLIC NOTICE: On July 2, 2020 a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties (Attachment 4). On July 16, 2020, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties (Attachment 5).

CONCLUSION: Staff recommends that the Planning Commission provide comments on the proposed LCPA and ZTA and recommend approval of the proposed amendments to the City Council.

ATTACHMENTS:

1. Planning Commission Resolution No. 20-35 (including Exhibits A (LCPA) and B (ZTA))
2. City Council Resolution No. 19-53
3. Public Correspondence
4. Public Hearing Notice
5. Notice of Availability

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 20-35

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE AMENDMENT TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND RECOMMENDING THAT THE CITY COUNCIL ADOPT LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003 AND ZONING TEXT AMENDMENT NO. 19-005 REGULATING THE RENTAL OF RESIDENTIAL UNITS FOR 30 DAYS OR LESS (SHORT-TERM RENTALS) INCLUDING BUT NOT LIMITED TO REQUIRING THE PRESENCE OF AN ONSITE HOST DURING CERTAIN SHORT-TERM RENTALS, AND OTHER RESTRICTIONS, AND CLARIFYING PERMITTED USES RELATED TO SHORT-TERM RENTALS (CITYWIDE)

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

SECTION 1. Recitals.

A. The City of Malibu wishes to address the potential impacts of short-term rental of residential property and protect the neighborhood character in the City by adopting regulations for the short-term rental of property that prohibit use inconsistent with the General Plan and impose prohibitions and regulations consistent thereof.

B. On December 3, 2019, in compliance with Local Coastal Program Local Implementation Plan Chapter 19, the City Council adopted Resolution No. 19-53 to initiate a Local Coastal Program (LCP) Amendment to consider changes to the Malibu LCP and a Zoning Text Amendment (ZTA) to consider changes to Title 17 (Zoning) of the Malibu Municipal Code (MMC) and provided direction to staff on the definitions and regulations to include in the proposed amendments.

C. On March 5, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

D. On March 12, 2020 the Special Planning Commission meeting of March 30, 2020 was adjourned to April 6, 2020 due to the COVID-19 pandemic.

E. On April 6, 2020, the Planning Commission continued the item to a date uncertain.

F. On July 2, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

G. On July 16, 2020, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu.

H. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. Local Implementation Plan (LIP) Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of, the exempt activity, they are subject to the same CEQA exemption.

The Planning Commission has analyzed the project proposal described herein. The California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Commission determined that there is no possibility the amendment will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Local Coastal Program Amendment

The Planning Commission hereby recommends that the City Council amend the LCP as detailed in Exhibit A.

SECTION 4. Local Coastal Program Findings.

Based on evidence in the whole record, the Planning Commission hereby finds that the proposed LCPA (Exhibit A) meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act.

A. The amendment maintains standards to require that development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will assure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

B. The amendment will be consistent with the following policy:

2.25 New development shall provide off-street parking sufficient to serve the approved use in order to minimize impacts to public street parking available for coastal access and recreation.

2.26 Adequate parking should be provided to serve coastal access and recreation uses to the extent feasible. Existing parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided.

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

SECTION 5. Zoning Text Amendment.

The Planning Commission hereby recommends that the City Council amend the MMC as detailed in Exhibit B.

SECTION 6. Zoning Text Amendment Findings.

Pursuant to MMC section 17.74.040, the Planning Commission hereby makes the following findings and recommends to the City Council that the MMC be amended as stated in Exhibit B of this resolution.

A. The subject zoning text amendment is consistent with the objectives, policies, general land uses and programs specified in the General Plan. The proposed amendment serves to enhance the Malibu General Plan Mission Statement, protect public safety and preserve Malibu's natural and cultural resources.

B. The Planning Commission held a public hearing, reviewed the subject zoning text amendment application for compliance with the City of Malibu General Plan, Malibu Municipal Code and the Malibu Local Coastal Program, and finds that the zoning text amendment is consistent and recommends approval.

SECTION 7. Based on the above findings, the Planning Commission hereby recommends that the City Council approve the LCPA and ZTA and detailed in Exhibits A and B.

SECTION 8. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 29th day of July 2020.

_____
JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

_____
KATHLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-35 was passed and adopted by the Planning Commission of the City of Malibu at the special meeting thereof held on the 29th day of July 2020, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
KATHLEEN STECKO, Recording Secretary

Exhibit A: Local Coastal Program Amendments

Exhibit B: Title 17 – Zoning Code Amendments

EXHIBIT A

LOCAL COASTAL PROGRAM AMENDMENT

A. Land Use Plan (LUP) Chapter 5 (New Development), Section C (Land Use Policies), Subsection 2 (Land Use Designations) is hereby amended to read as follows:

RURAL RESIDENTIAL (RR): The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City. The following maximum residential density standards shall apply:

RR1	One dwelling unit per acre
RR2	One dwelling unit per 2 acres
RR5	One dwelling unit per 5 acres
RR10	One dwelling units per 10 acres
RR20	One dwelling unit per 20 acres
RR40	One dwelling unit per 40 acres

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MOBILE HOME RESIDENTIAL (MHR): The MHR designation is intended to accommodate existing mobile home parks and associated facilities. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MULTI-FAMILY RESIDENTIAL (MF): The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted. Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City, up to a maximum of two dwelling units per parcel.

B. LUP Policy 5.20 is amended to read as follows:

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

C. LUP Policy 2.34 is amended to read as follows:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

D. Local Implementation Plan (LIP) Section 2.1 is amended by adding the following definitions, inserted in alphabetical order, or replacing where there is an existing definition:

DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is authorized by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and

C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling unless permitted pursuant to a valid short-term rental permit issued by the City. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

E. LIP Section 3.3(Q) Planned Development (PD) Zone is amended to read as follows:

Q. Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development, consistent with the PD Land Use Designation in chapter 5 (Section C.2) of the Land Use Plan consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcel Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018, known as Malibu Coast Estate, and formerly known as the "Crummer Trust" parcel.

2. Permitted Uses

The uses and structures permitted in Malibu Coast Estate are as follows. Lot numbers are as identified on the "Malibu Coast Estate Planned Development Map 1" of this LIP.

a. Lot Nos. 1—5

i. One single-family residence per lot.
ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
iii. Domestic animals, kept as pets.
iv. Landscaping.
v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

…

F. LIP Section 13.4.9.1 is added to Chapter 13 (Coastal Development Permits):

13.4.9.1 Exemption for Short-term Rental of Residential Property

Short-term rental use of residential property as defined in Section 2.1 of this LIP and which meet all of the following criteria.

A. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.
B. The short-term rental use is conducted in a dwelling unit that was lawfully established as described in LIP Section 13.3(F).
C. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

G. LIP Table B – Permitted Uses is amended by inserting the following new permit type and uses:

LIP Table B – Permitted Uses

KEY TO TABLE (In addition to a coastal development permit, the following permits are required.)	
P	**Permitted use**
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**
CUP	**Requires the approval of a Conditional Use Permit**
A	**Permitted only as an accessory use to an otherwise permitted use**

LFDC	**Requires the approval of a Large Family Day Care permit**
WTF	**Requires the approval of a Wireless Telecommunications Facility**
STR	**Use requires valid short-term rental permit approved by the City**
·	**Not permitted (Prohibited)**

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Single-family residential	P	P	P	P	·	·	·	·	·	·	·	·	·	**A**	·	·
Manufactured homes	P	P	P	P	·	·	·	·	·	·	·	·	·	·	·	·
Multiple-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments)	·	·	CUP	CUP	·	·	·	·	·	·	·	·	·	·	·	·
Second units	A[1]	A[1]	A[1]	A[1]	·	·	·	·	·	·	·	·	·	·	·	·
Mobile home parks	·	·	·	·	P	·	·	·	·	·	·	·	·	·	·	·
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	·	·	·	·	CUP	·	·	·	·	·	·	·	·	·	·	·
Mobile home as residence during construction	P	P	P	MCUP	·	·	·	·	·	·	·	·	·	·	·	·
Accessory uses (guest units, garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-	A[1]	A[1]	A[1]	A[1]	·	·	·	·	·	·	·	·	·	·	·	·

commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)																
Residential care facilities (serving 6 or fewer persons)	P	P	P	·	·	·	·	·	·	·	·	·	·	·	·	·
Small family day care (serving 6 or fewer persons)	A	A	A	·	·	·	·	·	·	·	·	·	·	·	·	·
USE	**RR**	**SF**	**MF**	**MFBF**	**MHR**	**CR**	**BPO**	**CN**	**CC**	**CV-1**	**CV-2**	**CG**	**OS**	**I**	**PRF**	**RVP**
RESIDENTIAL (continued)																
Large family day care (serving 7 to 12 persons)	LFDC	LFDC	LFDC	·	·	·	·	·	·	·	·	·	·	·	·	·
Home occupations	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	·	·	·	·	·	·	·	·	·	·	·	·
Short-term rental	STR[21]	STR[21]	STR[22]	STR[22]	STR[21]	·	·	·	·	·	·	·	·	·	·	·
…																

Notes:

1. Subject to Residential Development Standards (Section 3.6).
2. Subject to Home Occupations Standards [(Section 3.6(O)].
3. Use Prohibited in Environmentally Sensitive Habitat Areas.
4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use. This floor area requirement shall not apply to the Civic Center Wastewater Treatment Facility.
5. CUP for veterinary hospitals.
6. Maximum interior occupancy of 125 persons.
7. If exceeding interior occupancy of 125 persons.
8. By hand only.
9. Use permitted only if available to general public.
10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
11. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Sections 4.6.2 and 6.5(G).
12. Limited to public agency use only (not for private use).
13. Accessory uses when part of an educational or non-profit (non-commercial) use. However, residential care facilities for the elderly are limited to operation by a non-profit only.
14. CUP for facilities within a side or rear yard when adjacent to a residentially-zoned parcel.
15. Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including, but not limited to, injection wells, generators, and pump stations.
16. This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with the existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.

17. Transitional and supportive housing is permitted in the same manner as one single family residence and is subject to all the restrictions that apply to single family residential uses.
18. Transitional and supportive housing is permitted in the same manner as a multi-family residential use and is subject to all the restrictions that apply to multi-family residential uses.
19. Multi-family development associated with an affordable housing development project is permitted by right.
20. Multi-family development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3.4.5.
21. Hosted short-term rental only in RR, SF and MHR zones
22. Maximum of two dwelling units per parcel for MF and MFBF zones

EXHIBIT B

Malibu Municipal Code Title 17

Zoning Text Amendment

A. MMC Section 17.02.060 (Definitions) is hereby amended by adding the following definitions, inserted in alphabetical order, or replacing where there is an existing definition:

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Designated operator" means any natural person who is authorized by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Guest House" means detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling unless permitted pursuant to a valid short-term rental permit issued by the City.

"Hosted short-term rental" means a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with Section 17.55.040.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who

participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

"Lives onsite" means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit. This definition is applicable to Chapter 17.55 only.

"Owner" means any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner. This definition is applicable to Chapter 17.55 only.

"Primary Residence" means the usual place of return for housing of an owner as documented to the satisfaction of the City Manager by an active voter registration, a valid driver's license or other government issued identification card with the address of the property. A person can only have one primary residence. This definition is applicable to Chapter 17.55 only.

"Short-term rental" of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

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

Section 17.55.010 Short-Term Rental of Property

A. Hosted short-term rental of single-family residential property, and the short-term rental of up to two dwelling units on a multifamily housing parcel, is allowed as specified in Section 17.55.040 if conducted in compliance with this Chapter 17.55 and the owner complies with each of the following requirements:
    1. Obtains and maintains at all times a Short-Term Rental Permit issued pursuant to this Chapter.
    2. Operates the short-term rental activity in compliance with all permit conditions for short-term rental as set forth in Section 17.55.020 and any regulations promulgated pursuant to this Chapter.
    3. Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 3.24 of this Code.
    4. Takes responsibility for and actively prevents any nuisance activities that may take place as a result of short-term rental activities.
    5. Is available, or a designated operator is available, 24 hours a day, 7 days a week, at a phone number provided to both the City and any guest staying at the property to immediately answer a call from the City, an agent authorized by the

City to make such calls, or a guest when there is a guest renting the property. No person may serve as a designated operator for more than one hosted short-term rental.

6. Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
7. Limits the occupancy of the short-term rental (including the host, guests, and any other natural persons) to two people more than twice the number of bedrooms listed on City or County records as determined by the Planning Director up to a maximum of 14 people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
8. Requires all persons present at the property during a period when there is a short-term rental of a property to park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces as determined by the Planning Director are exempt from this requirement, but no more than one (1) vehicle may be parked on the street by persons present at the property during the short-term rental of the property.
9. Maintains liability insurance to cover the short-term rental of property with minimum limits of not less than $500,000 or conducts each short-term rental transaction through a hosting platform that provides equal or greater coverage.
10. Complies with Section 17.55.080 governing advertisements of short-term rentals.
11. Provides all guests with the Short-term Rental Code of Conduct, which shall be developed by the City Manager, and posts the same on the inside of the main entrance door to the dwelling unit rented, or on the wall adjacent thereto.
12. Provides 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 her/his designee for purposes of inspection or audit.
13. Complies with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
14. Maintains a valid Onsite Wastewater Treatment System (OWTS) operating permit pursuant to Chapter 15.44 or has entered a compliance agreement with the City excusing such compliance, and is in full compliance with the compliance agreement and not in default or breach.

Section 17.55.020 Short-Term Rental Permit Required

A. No person shall offer, facilitate an offer, or allow the short-term rental of property in any location not specifically identified and approved on a valid short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.
B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit. Each permit may include up to two listings, one per dwelling unit.

C. Application Required. To obtain a short-term rental permit an owner shall submit an application on a form to be provided by the City and signed by the owner under penalty of perjury.

D. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:

1. Address of the proposed short-term rental
2. Type of dwelling unit
3. Contact information for the owner of the property
4. Contact information for the designated operator, if a designated operator will live onsite for the hosted short-term rental
5. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.010(A)(14) paired with an attestation that the owner is in full compliance with the compliance agreement and not in default or breach
6. Attestation and agreement to comply with the requirements of this Chapter
7. Proof that the owner is in compliance with Chapter 3.24 of this code
8. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property
9. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that owner has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the owner maintains a short-term rental permit for the property.
10. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy
11. Attestation of compliance with the required insurance coverage
12. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis
13. The type of short-term rental permit sought: hosted or multifamily
14. If seeking a hosted short-term rental permit, proof of primary residency and attestation that the location is the owner's primary residence, meaning that the owner lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the owner's primary residence for the duration of the permit shall suffice
15. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire building, and an attestation that all dwelling units (except for two) are rented on a long term-basis per Section 17.55.040(B). The permit holder shall maintain copies of the leases for all tenants documenting compliance at all times with Section 17.55.040(B) for a period of three years following the expiration of the short-term rental permit.

E. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.

F. Notice of Approval. Upon approval, the Planning Director shall provide, at the owner's

expense, the contact information for the owner or designated operator identified in 17.55.010(A)(5) to all dwelling units within 500 feet of the short-term rental unit's parcel boundary.

G. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

H. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection (D) of this Section shall constitute a material change.

I. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.

J. No Transfer or Assignment. A short-term rental permit may not be assigned or transferred to another person.

K. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.

L. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit.

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:

1. The owner has not paid all TOT due or is not in compliance with Chapter 3.24 of this code.
2. The property has outstanding code enforcement violations.
3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
5. The owner has failed to amend an application as required by Section 17.55.020(H).
6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter.
7. The property has received more than two citations for violation of the City's noise ordinance within a period of 12 consecutive months.
8. Failure to comply with Section17.55.010(A)(14)
9. A holder of a Hosted Short-term Rental Permit receives a total of three citations for violation of any combination of the following requirements within a period of 12 consecutive months, or a holder of a Multifamily Short-term Rental Permit receives a total of two citations for violation of any combination of the following requirements within a period of 12 consecutive months:

i. The requirements of Sections 17.55.010(A)(4), (7), (8), (11), (12), 17.55.040(A), and Section 17.55.080.

17.55.040 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Hosted Short-term Rental Permit. A primary resident owner may obtain this type of permit which allows hosted short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. The owner, or designated operator, must live onsite during any period of rental, and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner or designated operator must be located onsite, and present immediately upon request, during the hours of 8 p.m. to 6 a.m. during any period that the unit is rented. Multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that a primary resident owner of a condominium unit may obtain this type of permit for the unit where he or she has established his or her primary residence.
B. Multifamily Short-term Rental Permit. Owners of entire multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two units in the building so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

17.55.050 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the owner are paid in full, including the renewal fee.

17.55.060 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such

permit) is denied, the City Manager or her/his designee shall not approve a new application for that owner and location for a 12 month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the owner knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(9)b, or (3) more than two citations for violation of the City's noise ordinance in a period of 12 consecutive months, a new application shall not be approved for a period of at least 12 months from the date of the last violation or short-term rental of the property, whichever is later.

B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of 12 months from the date of revocation.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other penalty) result in the property and owner being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.
D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.070 Appeals.

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within 30 calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above will result in the denial or revocation being deemed final.
D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 Advertisement and Facilitation of short-term rentals

A. The owner shall include and prominently post the following information in any advertisement for short-term rental:
    1. The short-term rental permit number issued by the City;
    2. That the owner lives onsite and the owner or designated operator will live onsite throughout the visitor's stay unless the advertisement is for a permitted multifamily

short-term rental;

3. The permitted occupancy of the short-term rental as specified in the short-term rental permit application;
4. The permitted number of visitor vehicles, in accordance with Section 17.55.010(A)(8);
5. Any other information required by regulations promulgated pursuant to this Chapter.

B. No advertisements regarding the availability of a dwelling unit for short-term rental shall be posted in or on any exterior area of the dwelling unit, any exterior area of any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.
C. The address of the property shall be prominently displayed.
D. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental.
E. Any offer or advertisement for the short-term rental of property in the City that does not contain a valid short-term rental permit number, or which the City identifies as illegal to the person or entity advertising or offering the rental, shall be immediately removed from any location it is posted, whether online or otherwise.

17.55.090 Hosting platform responsibilities.

A. Hosting platforms shall be responsible for collecting all applicable TOT and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the TOT the Hosting platform failed to collect and/or remit to the City.
B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.
C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.
D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.
E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C), (D) and (E) above, shall be presumed to be in compliance with this Chapter and shall not be found in violation of Section 17.55.080.
F. The provisions of this Section 17.55.090 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.100 Regulations.

The City Manager or designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.110 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 Section 17.55.020(A) by an owner shall be subject to a fine of $1000 per day or violation, or twice the short-term rental's advertised daily rental rate per day or violation, whichever is higher.
B. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code or local coastal program committed by guests at the property.
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.

C. MMC Title 17 – Appendix 1 (Permitted Uses Table) is hereby amended by inserting the following new permit type and uses:

Appendix 1 – Permitted Uses

In the event of a conflict between the table and the text of Title 17, the text shall control.

KEY TO TABLE (In addition to a coastal development permit where applicable, MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	Permitted use
MCUP	Requires the approval of a minor Conditional Use Permit by the Director
CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility
STR	Use requires valid short-term rental permit approved by the City
•	Not permitted (Prohibited)

USE	RR	SF	MF	MFBF	MH	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Agricultural employee housing, as an accessory use, animal related	A	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•
Agricultural employee housing, as an accessory use, crop related	A	A	CUP	•	•	•	•	•	•	•	•	•	•	•	•	•
One single-family residence per lot[28]	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Manufactured homes pursuant to Government Code § 65852.3	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Multifamily residential (including duplexes, condominiums, stock cooperatives, apartments, and similar development[29]	•	•	CUP[30]	CUP[2,30]	•	•	•	•	P[31]	•	•	•	•	•	•	•
Second units pursuant to Government Code § 65852.2	A	A	A	A	•	•	•	•	•	•	•	•	•	•	•	•
Mobile home parks in existence as of March 28, 1991	•	•	•	•	P	•	•	•	•	•	•	•	•	•	•	•
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•	•

USE	RR	SF	MF	MFBF	MH	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Mobile home park modifications to number, layout, or density and public or common areas, except for repair and maintenance	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•	•
Temporary mobile home as residence subject to § 17.40.040(A)(18)	P	P	P	MCUP	•	•	•	•	•	•	•	•	•	•	•	•
Accessory uses (guest units (750 sf max), garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)	A	A	A	A[3]	•	•	•	•	•	•	•	•	•	•	•	•
Residential care facilities (serving 6 or fewer persons)	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•	•
Large residential care facilities (serving 7 or more persons)	•	•	•	•	•	•	•	•	•	•	•	CUP	•	•	•	•
Small residential care facilities (serving 6 or fewer persons)	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Single Room Occupancy Facility	•	•	•	•	•	•	•	•	•	•	•	P	•	•	•	•
Small family day care (serving 6 or fewer persons)	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•	•

USE	RR	SF	MF	MFBF	MH	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Large family day care (serving 7 to 12 persons)	LFDC	LFDC	LFDC	•	•	•	•	•	•	•	•	•	•	•	•	•
Home occupations	P/MCUP[4]	P/MCUP[4]	P/MCUP[4]	P/MUP[4]	•	•	•	•	•	•	•	•	•	•	•	•
Short-term rental	STR[32]	STR[32]	STR[33]	STR[33]	STR[32]	·	·	·	·	·	·	·	·	·	·	·
…																

Notes:

1. One single-family residence in conjunction with an institutional use and consistent with the provisions of Chapter 17.08.
2. Includes the expansion of over 500 sq. ft. of existing multiple family structures.
3. Barns and corrals not allowed.
4. Subject to Home Occupation Standards Section 17.40.040(A)(19).
5. Public and private hiking trails in CR and I zones and private hiking trails in RR, SF, and MF zones.
6. Accessory uses when part of an educational or non-profit (non-commercial) use.
7. Subject to Section 17.08.020 (D)(2) for RR zone and Section 17.18.030(B)(2) for CR zone.
8. Subject to Section 17.08.020 (C)(5)for RR zone and Section 17.10.020(C)(5) for SF zone.
9. Subject to Section 17.08.020 (D)(1) for RR zone and Section 17.18.030(B)(1) for CR zone.
10. Subject to Section 17.08.030 (B), except that the minimum area required shall be 5 acres.
11. Subject to Section 17.08.020(D)(4) for RR zone and Section 17.18.030(B)(5) for CR zone.
12. Maximum interior occupancy of 125 persons.
13. If exceeding interior occupancy of 125 persons.
14. By hand only.
15. Subject to Section 17.08.040(F).
16. Subject to provisions of Section 17.34.030 when a facility is located within a side or rear yard adjacent to a residentially-zoned parcel.
17. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Sections 4.6.2 and 6.5(G).
18. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
19. Subject to Section 17.26.030(A)(1).
20. Subject to Section 17.08.040(C).
21. Limited to public agency use only (not for private use).
22. Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including, but not limited to, injection wells, generators, and pump stations.
23. Residential care facilities for the elderly are limited to operation by a non-profit only.
24. This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with the existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.
25. CUP required unless located in public right-of-way.
26. Subject to Section 17.22.040(N).
27. Subject to Section 17.66.120.
28. Transitional and supportive housing is permitted in the same manner as one single-family residence and is subject to all the restrictions that apply to single family residential uses.
29. Transitional and supportive housing is permitted in the same manner as a multifamily residential use and is subject to all the restrictions that apply to multifamily residential uses.
30. Multifamily development associated with an affordable housing development project is permitted by right.
31. Multifamily development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3.4.5 of the LIP.
32. Hosted short-term rental only in RR, SF and MHR zones
33. Maximum of two dwelling units per parcel for MF and MFBF zones

RESOLUTION NO. 19-53

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU INITIATING A LOCAL COASTAL PROGRAM AMENDMENT AND ZONING TEXT AMENDMENT TO CONSIDER CHANGES TO THE MALIBU LOCAL COASTAL PROGRAM AND TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE TO REGULATE THE SHORT-TERM RENTAL OF RESIDENTIAL PROPERTY.

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

SECTION 1. Recitals.

A. While the City of Malibu currently allows residential property to be rented on a short-term basis for periods of 30 days or less with registration and payment of transient occupancy tax and adherence to local laws and regulations, 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) against STR operators have been resisted and challenged. 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, 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential

zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition. The Commission further recommended that if, alternatively, the City Council adopts an ordinance that allows the short-term rental of property, that the City Council conduct all necessary environmental review required by the California Environmental Quality Act.

H. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. Council directed staff to revise the ordinance and return with additional information.

I. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

J. On October 28, 2019, the City Council held a duly noticed public hearing on short-term rentals and directed staff to return with a resolution to initiate a Zoning Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance to the City Council for adoption that can be implemented without an LCPA, with the understanding it will be superseded when the new ZTA and LCPA are approved.

K. On December 3, 2019, the City Council held a duly noticed public hearing, reviewed and considered the agenda report and previous agenda reports related to short-term rental regulation, reviewed and considered written reports, public testimony, and other information in the record and based thereon adopts Resolution No. 19-53.

SECTION 2. Initiation.

Pursuant to the City's Local Implementation Plan (LIP) Chapter 19 and MMC Chapter 17.74, the City Council hereby initiates amendments to the LCP and MMC Title 17 (Zoning) to address the potential impacts of short-term rental of residential property and protect the neighborhood character in the City by adopting regulations for the short term rental of property that prohibit use inconsistent with the General Plan and impose prohibitions and regulations consistent thereof and directs staff to issue a Notice of Availability consistent with LIP section 19.3.1. The amendments shall include proposing regulations that would limit the short-term rental of residential property to home-sharing except for certain multifamily housing where up to two units could be rented on a short-term basis without home-sharing, so long as the other units in the building were rented on a long-term basis.

SECTION 3. Planning Commission Hearing.

The Planning Commission is hereby directed to conduct a duly noticed public hearing in accordance with the provisions of LIP Chapter 19 and MMC Chapter 17.74. Following the public hearing, the Planning Commission shall recommend to the City Council whether it should approve, modify or deny the proposed amendments. The Planning Commission's recommendation shall be made by resolution carried by the affirmative vote of not less than the majority of the entire Planning Commission

SECTION 4. Certification

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 3rd day of December 2019.

KAREN FARRER, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:

CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 19-53 was passed and adopted by the City Council of the City of Malibu at the special meeting thereof held on the 3rd day of December 2019 by the following vote:

AYES:	5	Councilmembers:	Mullen, Peak, Wagner, Pierson, Farrer
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		

HEATHER GLASER, City Clerk
(seal)

From: Dennis Seider
Sent: Friday, July 3, 2020 10:23 AM
To: Planning Commission
Cc: Alan Armstrong
Subject: STRO

Hi Please do not ban whole house rentals as appears to have been done in SM; families need a safe place all of the guests can stay together without the owner in the house. Less severe restrictions can better promote neighborhoods.
Thanks
Dennis

Sent from my iPhone
DENNIS J SEIDER

From: Alexis Byfuglin
Sent: Sunday, July 12, 2020 1:34 PM
To: Planning Commission
Subject: From Alexis byfuglin 26725 Via Linda Street Mlibu

Please send me information re this ordinance. I am next door to a single owner home and he is renting air b & b, almost two to three persons or families a day. There is constant cars coming and going at all hours of the night. I did call and did report, no results. I wNT TO PARTICIPATE IN THE MEETING ON THE 29TH PLEASE MAKE SURE I GET ON YOUR LIST. Sincerely, Alexis

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Sent: Monday, July 13, 2020 2:10 PM
To: Justine Kendall
Subject: public hearing regarding short term rentals

Hello Justine

I am a resident of Malibu now. I moved here a little over a year ago from Marina del Rey.
In MDR we lived in a condo that allowed airbnb. The HOA was also discussing whether to continue to allow it as it brings up safety issues (non stop new people coming and going) and whether it affects property values.

We live in a home on PCH now and our neighbors, a couple doors down, are short term renting their home. We constantly have new people there, different cars, etc. and new people on the beach.

I think these short term rentals affect a neighborhood and not in a good way. And i think it takes away business from local hotels. (Unless the malibu hotels are always full!?)

If I wanted to live next to a hotel, I would move next to a holiday Inn and not pay a small fortune for my home.

I would prefer that malibu either have VERY strict restrictions or not allow it at all.

Thank you for listening.
Sincerely
Sookhee

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
PLANNING COMMISSION

The Malibu Planning Commission will hold a public hearing on **WEDNESDAY, July 29, 2020, at 6:30 p.m**. on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order (revised April 10, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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 planningcommission@malibucity.org before the meeting begins.

How To Participate During The Meeting: Members of the public may also speak during the meeting through the online Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Chair and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003 AND ZONING TEXT AMENDMENT NO. 19-005 (Hosted Short-term Rental Amendments) – An amendment to the Local Coastal Program and to Title 17 (Zoning) of the Malibu Municipal Code regulating the rental of residential units for 30 days or less (Short-Term Rentals) including but not limited to requiring the presence of an onsite host during short-term rental, and other restrictions, and clarifying permitted uses related to short-term rental

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Justine Kendall, Associate Planner (310) 456-2489, extension 301 jkendall@malibucity.org

In accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an Local Coastal Program (LCP) amendment. This application is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect. Local Implementation Plan Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of, the exempt activity, they are subject to the

same CEQA exemption. In addition, the Planning Director has analyzed the proposed amendments. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Director has determined that there is no possibility the amendment will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies.

A written staff report will be available at or before the hearing. All persons wishing to address the Planning Commission will be afforded an opportunity in accordance with the Commission's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents can be reviewed by any interested person by contacting the Case Planner during regular business hours. Oral and written comments may be presented to the Planning Commission on, or before, the date of the meeting.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Justine Kendall, at (310) 456-2489, extension 301.

BONNIE BLUE
Planning Director

Publish Date: July 2, 2020

CITY OF MALIBU
NOTICE OF AVAILABILITY
OF LCP AMENDMENT MATERIALS

SHORT-TERM RENTAL REGULATIONS

LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003 AND ZONING TEXT AMENDMENT NO. 19-005 – An amendment to the Local Coastal Program and to the Malibu Municipal Code regulating the rental of residential units for 30 days or less (Short-Term Rentals) including but not limited to requiring the presence of an on-site host during short-term rental, and other restrictions, and clarifying permitted uses related to short-term rental

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Justine Kendall, Associate Planner (310) 456-2489, extension 301 jkendall@malibucity.org

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LIP Section 19.3.1 requires review drafts be made readily available for public perusal in local libraries, in the City administrative offices, and at the Coastal Commission District office. Please note that facility closures due to protocols to prevent the spread of COVID-19 may preclude the LCP amendment documents being available for review in person, but documents will be available on the City's website at malibucity.org/STR.

If there are any questions regarding this notice, please contact Justine Kendall, at (310) 456-2489, extension 301.

_____

BONNIE BLUE
Planning Director

Publish Date: July 16, 2020

Kathleen Stecko

Subject: FW: AirBnb

Received
7/28/20
Planning Dept.

From: Antoinette Berget
Sent: Tuesday, July 28, 2020 3:04 PM
To: Planning Commission <planningcommission@malibucity.org>; Antoinette "Toni" Berget
Subject: AirBnb

Dear Planning Commissioners,
My name is Antoinette Berget, I am 87 years young and I am living on Birdview Ave for over 30 peaceful years and I have NEVER or will NEVER get any complaints from any of our neighbors.
Most of my guests are REPEAT PEPPERDINE PARENTS and have become good friends. My wonderful neighbor ANTHONY HOPKINS has NEVER had any complaints, but ONLY complements regarding how wonderful and quiet all my guests have been.

I RESPECT ALL MY neighbors and expect the same from them. Several neighbors have rented my place for their own family and friends and everyone loved it here.

I know the BIG problem are these PARTY HOUSES that must be SHUT DOWN!!!!!!!!!!!!!!!!!!!!!!!!!!

I live on my property and have a one room studio bedroom connected to my home and a small guest house 5 feet away that I rent out. EVERYONE is happy, quiet and very respectful!
Our taxes that is collected has helped our city, plus the extra money coming in for ALL our small businesses and helping me with my mortgage payments.

Please consider getting rid of ONLY the offenders!
Thank you,
Antoinette Berget

Kathleen Stecko

Subject: AirBnb

Received
7/28/20
Planning Dept.

From: Antoinette Berget
Subject: AirBnb
Date: July 28, 2020 3:04:00 PM PDT
To: PlanningCommission@malibucity.org, "Antoinette \"Toni\" Berget"

NEW INFO ADDED*

Dear Planning Commissioners,
My name is Antoinette Berget, I am 87 years young and I am living on Birdview Ave for over 30 peaceful years and I have NEVER or will NEVER get any complaints from any of our neighbors. Most of my guests are REPEAT PEPPERDINE PARENTS and have become good friends. My wonderful neighbor ANTHONY HOPKINS has NEVER had any complaints, but ONLY complements regarding how wonderful and quiet all my guests have been.

I RESPECT ALL MY neighbors and expect the same from them. Several neighbors have rented my place for their own family and friends and everyone loved it here.

I know the BIG problem are these PARTY HOUSES that must be SHUT DOWN!!!!!!!!!!!!!!!!!!!!!!!!

I live on my property and have a one room studio bedroom connected to my home and a small guest house 5 feet away that I rent out. EVERYONE is happy, quiet and very respectful!
Our taxes that is collected has helped our city, plus the extra money coming in for ALL our small businesses and helping me with my mortgage payments.

NEW ADDED INFO* 5 (FIVE) of my renters have purchased homes in Malibu:
Mike Cunningham with Pinnacle REALTORS Married here and rented for a week, many years ago!!!
Monica De Mulion
John Cate
Allison Poitier

Please consider getting rid of ONLY the offenders!

Thank you,
Antoinette Berget

Kathleen Stecko

Subject: From Alexis byfuglin 26725 Via Linda Street Mlibu

Received
7/12/20
Planning Dept.

From: Alexis Byfuglin
Sent: Sunday, July 12, 2020 1:34 PM
To: Planning Commission <planningcommission@malibucity.org>
Subject: From Alexis byfuglin 26725 Via Linda Street Mlibu

Please send me information re this ordinance. I am next door to a single owner home and he is renting air b & b, almost two to three persons or families a day. There is constant cars coming and going at all hours of the night. I did call and did report, no results. I wNT TO PARTICIPATE IN THE MEETING ON THE 29TH PLEASE MAKE SURE I GET ON YOUR LIST.
Sincerely, Alexis

Received
7/28/20
Planning Dept.

July 28, 2020

Re: Item 1A -- Support for the adoption of staff's proposed Short-Term Rental Ordinance

Dear Commissioners:

In short, as it pertains to multi-family properties, I urge you to adopt the ordinance as drafted by your staff. It is a fair compromise that would preserve almost half of the apartments on Malibu Road as long-term rentals while at the same time provide much-needed visitor accomodations.

I have owned my property on Malibu Road for 31 years and lived in it until I needed to move for work and family reasons. Renting my apartments on a short-term basis gives me and my family the ability to regularly enjoy our property in Malibu by staying in one of the units in between visitors, which is something we couldn't do if you vote to ban STRs in multi-family buildings. It would be ecomonically irresponsible for me to keep a unit vacant solely for our use, and unfortunately, moving back to Malibu is not an option. This means that requiring primary residency for multi-family STRs would make it impossible for me to continue visiting and enjoying the property with my family -- something I have worked very hard to maintain.

I take great pride in my Malibu Road property and being a responsible steward of this community that I hold so dear. That's why I have long employed a property manager who lives nearby to ensure that the property and visitors are closely monitored. In addition, I have strict rules in place for the people renting my units. I limit the number of guests to two people per bedroom, I do not allow parties or events, and I permit the use of my apartments only to confirmed guests (no visitors).

Before COVID, my guests were mostly couples and families from around the country as well as international visitors who are seeking more affordable accommodations. The space and amenities an apartment can offer a family are often better than those of a hotel/motel.

In the four years I have rented my apartments on a short-term basis, I have not received a single complaint from any of my neighbors. And with the additional income generated, I have reinvested the money in my property to complete numerous much-needed repairs to the building.

The proposed ordinance for your consideration represents a well-reasoned compromise that will provide benefits to property owners while maintaining diversity in the Malibu housing market. Based on the makeup of the multi-family portion of Malibu Road, allowing two STRs at each multi-family property would allow for a maximum of 44 STRs and a minimum of 39 long-

term rentals. That is the housing diversity Malibu wants and needs.

Allowing STRs in multi-family residences will effectively reduce the incentive for owners to take buildings off the rental market and convert them to single-family homes or condominumiums, thereby preserving some of those units as long-term rentals. If the house conversion trend were to continue, there would be very few multi-family properties on the Road in 10 years.

It is incoumbent upon the City to consider the costs/benefits of visitors to Malibu, and not just those who choose to rent here long-term. More affordable short-term rental options for visitors is a major concern of the Coastal Commission as it is the Coastal Act's mandate to maximize public access to the coast.

Permitting short-term rentals in multi-family dwellings makes a wider variety of options and price ranges availble to people who would otherwise not be able to afford to stay in Malibu. The approximately 100 hotel/motel rooms currently in Malibu seriously underserve the 12-15 million people who vist Malibu annually. Short-term rentals, especially in multi-family units, provide neded, less expensive alternatives to visitors.

It is also important to consider the TOT income STRs generate. Annually, STRs create approximately $2,400,000. More now than ever, the City desperately needs these funds.

Lastly, I have heard there are some who believe STRs should only be allowed on a seasonal basis. This won't work for multi-family properties as they are now subject to statewide rent control and no-fault evictions. In other words, if a long-term tenant who rents an apartment for six months is paying their rent, when their lease expires, it automatically converts to a month-to-month rental. This means the tenant has the right to stay in the apartment indefinitely, therefore the property owner could not commit to seasonal STRs.

As it pertains to multi-family properties, the ordinance as proposed by staff is a thoughtful response to what has clearly been a vexing problem for the City. I hope you consider my comments and do the right thing for the future of Malibu and approve this ordinance as drafted.

Best regards,



Andrew Gombiner

[redacted]

Kathleen Stecko

Subject: To Be Read At The City Of Malibu Public Hearing On Short-Term Rentals

Received
7/29/20
Planning Dept.

From: Sent: Wednesday, July 29, 2020 2:39 PM
To: Justine Kendall <jkendall@malibucity.org>
Subject: To Be Read At The City Of Malibu Public Hearing On Short-Term Rentals

Date Received 7/29/20 Time 3:00 PM
Planning Commission meeting of 7/29/20
Agenda Item No. 1A
Total No. of Pages 3

This is from Anonymous.
Please, would someone read this out loud. Thank you.

I am requesting my name be withheld because my neighbor has threatened me and my house on several occasions.

In my opinion there should be no short-term rentals in Malibu.

The reason is that the City of Malibu does not have adequate security personal to deal with travelers. Short-term rentals often present issues with noise, litter, personal safety, and compromise the comfort of permanent residents.

Some of the large management companies are not equipped to handle complaints. If you call a given number you are often put on hold for up to an hour and when you do get through you are told that a field officer from their company will call you back. They do call you back, most of the time hours later and often the next day. This does not help.

Rentals of homes for less than 6 months should not be allowed. Heavy fines should be given out to people who rent a house for 6 months only to turn around and sublease the home to short term rentals.

The peace and harmony that defines Malibu should be preserved for the Malibu Way of Life for the citizens of Malibu. Should I as a Malibu homeowner never get a good night's sleep so my neighbor can make a fistful of dollars?

I believe that THE OWNER OF THE HOME MUST ALWAYS BE LIVING IN THE HOME THAT IS TO BE RENTED.
Not an on-site host but THE OWNER.

The owners must be there while the renters are there so therefore an entire house can never be rented out.

This means that while the home owner can rent out a spare room in their home for less than 30 days, there cannot be any locks installed on common needed areas. This should be checked and enforced.

I believe that all owners who rent out a home, even while the owners are there, should need a license to rent.

All neighbors within 5 houses away in both directions should receive a form in the mail asking them to share any complaints about homes that are being rented out for short-term leasing even if the owner is always there.

Home owners that never live in their home often let their home become a physical eyesore and a safety risk because they do not care. Every home that has a license to do short-term rentals should be checked every six months inside and outside. The excuse that it will be taken care of in the near future should never be accepted and repairs and upkeep should hold up use of the license to rent out their home, otherwise nothing will ever be kept in good condition.

The excuse that they are about to sell their home or that they plan to hire a new management company should never be accepted.
There are homes that look like they are falling apart that these owners write the same excuses year after year.

Anyone applying for a license that states that they are the home owner and that they always live there as their permanent residence should need to prove that they have lived in the house for at least two years and that this home is in fact their permanent residence

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

If a home is being rented out to short-term renters and the home being rented shares a common entrance, exit, or steps with another home, in order to get a license to do short-term renting, the house applying for a license must prove to the City of Malibu that they have at least a million dollar liability insurance for their guests.

Another requirement should be that no property can be rented for short term rentals if it is within 15 feet of another property. To live next door to a 24/7 hotel when your home is less than 15 feet away is very wrong on every level of acceptance.

The owner can never have more than 2 people per bedroom renting short-term leasing in their home.

It should be against the law to advertise a home for short-term rental. Advertising short-term rentals is not allowed in Manhattan, New York and if someone does advertise, the fine is $2,500.00 per advertisement.

In the city of San Francisco, where the headquarters of Airbnb is located, they maintain a list of of all registered homeowners allowed to do short-term rentals and share this online. This way the good citizens of the city can help regulate people who do not follow the law. The City Of Malibu should have the same.

It should be the law that an owner can only rent out their primary residence, not a second home or an investment property with a daily fine of $100.00 a day and $1,000.00 a day to repeat offenders that have paid the $100.00 fine on 3 other occasions.

All owners who rent out space in their primary residence will be required to pay the same percent of tax that hotels pay to the City of Malibu and to the state.

While I do believe that no advertising should be allowed, should this not be voted on, then all platforms Ike Airbnb, etc. should all be obligated to report all licensed operators and their listed units every month online to the City of Malibu and the residents of the City Of Malibu.

As in the city of Oakland, there should be a 14% transient occupancy tax that should apply to all short-term leasing.

There should be a maximum of 8 short-term rental people per night.

The enforcement actions should range from fines to felony charges as it is not okay to ruin a neighbor's lifestyle and then lie about it to the local government of Malibu. There should be consequences when the local government of the City of Malibu has proof that a citizen in Malibu is not telling the truth to the local government of Malibu. No law will be followed without enforcement.

While many citizens of Malibu believe that no municipality should be able to regulate what happens on a homeowners property, IN THE UNITED STATES OF AMERICA THIS POINT IS OVERRULED BY THE FACT THAT NO ONE HAS THE RIGHT TO DISTURB ITS CITIZEN'S PEACE OF MIND AND FOR ITS CITIZENS TO BE ABLE TO SLEEP AT NIGHT.

I NEVER DREAMED THAT SO MANY IN MALIBU WOULD BE OPERATING A 24/7 HOTEL.

Their right to earn money does not block my rights or the rights of others to sleep at night. No homeowner has a right to disturb other home owners of enjoying their home.

I think one question should be: Is Malibu going to protect their citizens?

I think another question should be: Has the City Of Malibu turned the Malibu community over to business people to only make money and damage the rights of the other citizens to enjoy the Malibu lifestyle?

I think that the answer is perhaps: The Office Of Code Enforcement Must Be Expanded So That The Rules That Malibu Does Presently Have Can Be Enforced.

Malibu has always been a dream community and a marvelous place to live.

In my opinion, there should be no short-term rentals in Malibu.

Thank you.

Received
7/29/20
Planning Dept.

EXHIBIT A

LOCAL COASTAL PROGRAM AMENDMENT

A. Land Use Plan (LUP) Chapter 5 (New Development), Section C (Land Use Policies), Subsection 2 (Land Use Designations) is hereby amended to read as follows:

RURAL RESIDENTIAL (RR): The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City. The following maximum residential density standards shall apply:

RR1	One dwelling unit per acre
RR2	One dwelling unit per 2 acres
RR5	One dwelling unit per 5 acres
RR10	One dwelling units per 10 acres
RR20	One dwelling unit per 20 acres
RR40	One dwelling unit per 40 acres

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MOBILE HOME RESIDENTIAL (MHR): The MHR designation is intended to accommodate existing mobile home parks and associated facilities. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MULTI-FAMILY RESIDENTIAL (MF): The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted. Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City, up to a maximum of two dwelling units per parcel.

B. LUP Policy 5.20 is amended to read as follows:

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

C. LUP Policy 2.34 is amended to read as follows:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

D. Local Implementation Plan (LIP) Section 2.1 is amended by adding the following definitions, inserted in alphabetical order, or replacing where there is an existing definition:

DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is authorized by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and

B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and

C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling ~~unless permitted pursuant to a valid short-term rental permit issued by the City~~. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

Commented [CCC1]: It's not clear if the proposed language is meant to exempt the requirement for containing no kitchens or to not be rented or otherwise used as a separate dwelling.

We recommend these revisions to clarify the intent of the proposed amendment which is to allow guest houses to be used as STRs pursuant to a STR permit.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

E. LIP Section 3.3(Q) Planned Development (PD) Zone is amended to read as follows:

Q. Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development, consistent with the PD Land Use Designation in chapter 5 (Section C.2) of the Land Use Plan consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcel Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018, known as Malibu Coast Estate, and formerly known as the "Crummer Trust" parcel.

2. Permitted Uses

The uses and structures permitted in Malibu Coast Estate are as follows. Lot numbers are as identified on the "Malibu Coast Estate Planned Development Map 1" of this LIP.

a. Lot Nos. 1—5

i. One single-family residence per lot.
ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
iii. Domestic animals, kept as pets.
iv. Landscaping.
v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

…

F. LIP Section 13.4.9.1 is added to Chapter 13 (Coastal Development Permits):

13.4.9.1 Exemption for Short-term Rental of Residential Property

Short-term rental use of residential property as defined in Section 2.1 of this LIP and which meet all of the following criteria.

A. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.
B. The short-term rental use is conducted in a dwelling unit that was lawfully established as described in LIP Section 13.3(F).
C. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

Commented [CCC2]: Since short-term rental use of residential property is not a category of exemption but more of a use that is not considered development, we recommend moving this section outside of LIP Chapter 13.4 (Exemptions) and into another LIP Chapter.

G. LIP Table B – Permitted Uses is amended by inserting the following new permit type and uses:

LIP Table B – Permitted Uses

KEY TO TABLE (In addition to a coastal development permit, ~~the following~~ MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	**Permitted use**
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**

Commented [CCC3]: Not certified language. Needs to be updated to reflect certified LCP Amendment No. LCP-4-MAL-13-0241-1 (Affordable Housing/Reasonable Accommodations) as shown here. We also recommend adding STR here.

CUP	**Requires the approval of a Conditional Use Permit**
A	**Permitted only as an accessory use to an otherwise permitted use**
LFDC	**Requires the approval of a Large Family Day Care permit**
WTF	**Requires the approval of a Wireless Telecommunications Facility**
STR	**Use requires valid short-term rental permit approved by the City**
·	**Not permitted (Prohibited)**

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Single-family residential	P	P	P	P	·	·	·	·	·	·	·	·	·	**A**	·	·
Manufactured homes	P	P	P	P	·	·	·	·	·	·	·	·	·	·	·	·
Multiple-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments)	·	·	CUP	CUP	·	·	·	·	·	·	·	·	·	·	·	·
Second units	A[1]	A[1]	A[1]	A[1]	·	·	·	·	·	·	·	·	·	·	·	·
Mobile home parks	·	·	·	·	P	·	·	·	·	·	·	·	·	·	·	·
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	·	·	·	·	CUP	·	·	·	·	·	·	·	·	·	·	·
Mobile home as residence during construction	P	P	P	MCUP	·	·	·	·	·	·	·	·	·	·	·	·
Accessory uses (guest units, garages, barns, pool houses,	A[1]	A[1]	A[1]	A[1]	·	·	·	·	·	·	·	·	·	·	·	·

pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)																
Residential care facilities (serving 6 or fewer persons)	P	P	P	·	·	·	·	·	·	·	·	·	·	·	·	·
Small family day care (serving 6 or fewer persons)	A	A	A	·	·	·	·	·	·	·	·	·	·	·	·	·
USE	**RR**	**SF**	**MF**	**MFBF**	**MHR**	**CR**	**BPO**	**CN**	**CC**	**CV-1**	**CV-2**	**CG**	**OS**	**I**	**PRF**	**RVP**
RESIDENTIAL (continued)																
Large family day care (serving 7 to 12 persons)	LFDC	LFDC	LFDC	·	·	·	·	·	·	·	·	·	·	·	·	·
Home occupations	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	·	·	·	·	·	·	·	·	·	·	·	·
Short-term rental	STR[21]	STR[21]	STR[22]	STR[22]	STR[21]	·	·	·	·	·	·	·	·	·	·	·
…																

Notes:
1. Subject to Residential Development Standards (Section 3.6).
2. Subject to Home Occupations Standards [(Section 3.6(O)].
3. Use Prohibited in Environmentally Sensitive Habitat Areas.
4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use. This floor area requirement shall not apply to the Civic Center Wastewater Treatment Facility.
5. CUP for veterinary hospitals.
6. Maximum interior occupancy of 125 persons.
7. If exceeding interior occupancy of 125 persons.
8. By hand only.
9. Use permitted only if available to general public.
10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
11. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Sections 4.6.2 and 6.5(G).
12. Limited to public agency use only (not for private use).
13. Accessory uses when part of an educational or non-profit (non-commercial) use. However, residential care facilities for the elderly are limited to operation by a non-profit only.
14. CUP for facilities within a side or rear yard when adjacent to a residentially-zoned parcel.
15. Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including, but not limited to, injection wells, generators, and pump stations.

16. This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with the existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.
17. Transitional and supportive housing is permitted in the same manner as one single family residence and is subject to all the restrictions that apply to single family residential uses.
18. Transitional and supportive housing is permitted in the same manner as a multi-family residential use and is subject to all the restrictions that apply to multi-family residential uses.
19. Multi-family development associated with an affordable housing development project is permitted by right.
20. Multi-family development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3.4.5.
21. Hosted short-term rental only in RR, SF and MHR zones
22. Maximum of two dwelling units per parcel for MF and MFBF zones

Received
7/29/20
Planning Dept.

July 29 2020

Public Hearing City of Malibu Planning Commission

Short term rentals in Malibu
Local Coastal program amendment No 19-003 and zoning text amendment No. 19-005

To whom it may concern,

I want to share my objections regarding these proposed amendments.

1) Objections: Legality: The proposed amendments are not constitutional. Articles 1, 4 , 14 of the constitution are not respected. The constitutional rights of the owners are not respected, and as such by passing these amendments, the City of Malibu exposed itself to lengthy and expensive lawsuits. Therefore passing these new ordinances is not in the interest of the city of Malibu.

The project should be abandoned.

2) benefits:
The short term rentals bring lots of benefits to the City of Malibu:
- The demand for Malibu as recorded by booking.com in the summer is as high as 10,000 tourists per day. If you add hotels and short term rentals, the city can offer a maximum of 1000 Tourists the possibility to come. Only 10% of the demand is satisfied right now.

- As a result of this great demand, the prices are higher than anywhere else in California. This creates 2 effects:
1) TOT are higher for the city
2) The only visitors admitted are wealthy visitors, who in turn spend more money in the local businesses.

If I may share my personal observation: Most of our visitors go to the Lumber Yard outside mall. As a long time owner of a Fashion company, I was able to observe the difficulties of the retailers in that mall. If you remove the wealthy tourists from this mall, it will close completely within 2 years or before.

Our visitors also love the surf shops. These businesses need the tourists.

Property values:
Short term visitors prop up the value of Real Estate. While Malibu enjoys higher $ per SqFT than most California, the city also benefits from higher taxes and all the residents benefit from the higher values.

Malibu owners can pay for their vacations: I spoke to a series of owners who like to travel and who can afford vacations with the short term rentals income.

2) The need for proper regulations:

While short term rentals is a blessing for the local economy, I also understand that some abusive renters organize noisy parties.
Again, I would like to share my own experience on that subject.

During the last 5 years, I had 2 cases of abusive renters:
A) a lawyer from Los Angeles invited 25 friends to a birthday and organized a loud party
B) A local woman invited 30 girls to her daughter's birthday.

These events happened at the beginning. We changed our advertising and we added strong warnings to discourage party renters. We were successful in eradicating completely the problem very quickly.
The issues are rare and do not justify these new amendments.

3) Conclusion:

Short term rentals is an incredible Economic opportunity derived from the progresses in social media. Why billions of dollars of real estate should stay idle ?, while it brings more taxes to the city and more wealth to its citizens?

The tourists want to come to Malibu. They can no longer come to Santa Monica or to Los Angeles.

I have not heard yet, one single benefit associated with the restrictions.

Some have said that the restrictions reduce homelessness ? This is not a Malibu issue.

Some have said that the owners would instead rent the same units to long term citizens of their city: This is rarely working in Los Angeles and will never be the case in Malibu.

Some have said that this will enhance the social cohesion of the citizens.
Actually encouraging citizens to report each other is a sure way to destroy social harmony in the city.

There are no economic benefits for the city to pass such amendments. Only big legal liability since these amendments do not respect the constitution.

The city of Malibu has a unique opportunity. Los Angeles and Santa Monica have discouraged by now most Real Estate investors. By not following their strategies, you will bring tremendous successes and wealth to the citizens of Malibu.

Thank you for your consideration ,
Respectfully,

[redacted]

Kathleen Stecko

Subject: Special meeting July 29, 2020

Received
7/27/20
Planning Dept.

From: Bill Sampson
Sent: Monday, July 27, 2020 1:42 PM
To: Planning Commission <planningcommission@malibucity.org>
Subject: Special meeting July 29, 2020

The so-called short term rental ordinance is before you only due to the abject failure of the City Council, the City Planning Commission, the City Manager and City staff to enforce existing law. Short term rentals are not permitted under the existing Zoning Code. These facilities are simply motels. They are not permitted in single family residential zones. Please note that the existing code has already been approved by Coastal – many years ago. There is no need whatsoever for these unseemly and unlawful gyrations. Although it would not be a change and thus not subject to Coastal approval, follow the remarks of Councilman Peak from several years ago and do the right thing: "Why don't we just ban them." Send THAT to the council. The only reason to do so is that it is the right thing to do. Shouldn't that be enough?

Bill and Rosemary Sampson

July 29, 2020

Received
7/29/20
Planning Dept.

Dear Planning Commissioner Jennings:

I am contacting you to comment on the staff's Short Term Rental ordinance. I think the staff has done a good job with one large, glaring exception. Throughout the years' of meetings and discussions, all involved parties have always been in general agreement that large parties are often the most problematic and should be not be allowed in connection with a short term rental. Therefore that should be spelled out – maximum occupancy allowed is 2 people per bedroom +2 for homes up to a 6 bedroom house and never more than 14 people – 'Requirement #6".

Special Event Permits are not available to a short term rental occupancy, period. So this also modifies the feature regarding parking.

No ZTA is necessary in the interim before this ordinance is enacted, current ordinances are working good enough in the interim.

I do not understand how the maximum number of STR units in a 5 or less multi-family building got increased to to 2 when 1 had been agreed upon and I do not think it is wise to exempt multi-family buildings from having an onsite designated operator.

The language regarding how many STR's can be owned by an "individual" is not 100% clear. Many properties are owned by Family Trusts and/or corporations – how do the rules apply to these entities and limiting the number of STR's owned by an "individual"?

And, lastly, I think it is wise to follow Mr Lustig's suggestion of specifying no STR for less than 24 hours, to drop the contract with Host Compliance and contract Hamari.com for compliance software instead and to hire and train two dedicated city compliance officers.

Thank you for all of your hard work and patience. It has been years and I think we are super, super close to having this ordinance crafted.

Thank you,

Beatrix Zilinskas

Kathleen Stecko

Subject: Short Term Rentals

Received
7/28/20
Planning Dept.

From: Constance Bell
Sent: Tuesday, July 28, 2020 5:55 PM
To: Jeffrey D Jennings; Chris Marx; Steve Uhring; David Weil; John Mazza; Kathleen Stecko
Subject: Short Term Rentals

To the Chair, Vice Chair, and Commission members, The City of Malibu, and indeed the whole world, is going through an unprecedented time right now. Following so soon after the Woolsey fire, the Covid-19 crisis is severely impacting all of us in Malibu. The future, while unknown, seems to indicate a closure of many restaurants and retail spaces and many residents being laid off or losing their jobs or even the loss of money put aside in investments. This bleak economic forecast could go on for years to come. Therefore, it seems like a terrible decision to now restrict short term rentals in Malibu, which contribute so much to the economic viability of the City, not only through the Transient Occupancy Taxes but also with money visitors spend on local businesses.

I have been a Malibu resident for 60 years and an Airbnb host for 6 years. As a senior, I would never be able to replace my Airbnb income if I was not able to continue renting. This would be a devastating loss for me and I know that there are many other Airbnb hosts in my same position. I do want to make the point that, for myself, there are distinct advantages renting for the short term as opposed to a long term rental. With short term rentals, I have more privacy as I rent approximately 60% of the year. There is less impact on water use, on utilities use, and on parking in the neighborhood, with less frequent renters. I am also able to block off periods of time when, for personal reasons, I don't wish to rent. None of these things are open to me with long term rentals.

I do accept that the Airbnb "party houses" should be shut down. Airbnb has banned them from the site. After the Woolsey fire and during the current crisis, I would doubt that there are many new complaints about party houses. I don't feel that the vast majority of hosts should have to suffer as a result of just a few cases. They should be dealt with separately and severely.

Thank you for reading this email and I hope you will consider shelving any voting on short term rental restrictions indefinitely. Economically, I believe these restrictions to be devastating not only for me but for the city of Malibu as well. We are all in this together now.

Kathleen Stecko

Subject: Pls do not require an on-site host for residents using their home for STR for only 6-8weeks per year.

Received
7/28/20
Planning Dept.

From: Colin Drummond
Sent: Monday, July 27, 2020 10:51 PM
To: Jo Drummond
Cc: Planning Commission; John Mazza; Chris Marx; David Weil; Steve Uhring; Jeffrey D Jennings; Kathleen Stecko; rosemarie.ihde@gmail.com
Subject: Re: Pls do not require an on-site host for residents using their home for STR for only 6-8weeks per year.

Honorable commissioners, I would add that requiring an on-site host seems less like a reasonable attempt to restrict STRs and more like a way to outright eradicate them, thus trampling on our rights as tax paying homeowners.

We all know and fear Malibu becoming half empty, filled with strangers renting homes for wild, loud weekend visitors.

I think it's helpful to view the STR owners as two very different types: those attempting to draw income on a semi-full time basis and those supplementing their incomes occasionally like ourselves. Using ourselves as examples, we are not turning Malibu into a ghost town. We are highly active and visible volunteers in the community, our kids go to Malibu High, we shop at Ralph's, etc. We are no threat to the fabric of Malibu, we are an important part of it.

The ordinance should make reasonable accommodation for these very plainly different scenarios.

Colin

On Mon, Jul 27, 2020 at 10:23 PM Jo Drummond wrote:

> Honorable Planning Commissioners,
>
> My husband and our family of 5 go away for several weeks in the summer as well as the winter for two weeks and when we do we rent out our home to help defray property taxes and college tuition (we have 3 kids that need college paid for - that's hundreds of thousands of dollars as you know). We rent it out for a minimum of one week often renting regularly for 12-15 days to similar families such as ours needing a getaway. They are always quiet, respectful and enjoy the home. They use the entire house so there would be no place for an on site host to be present. Unless it could be one of my neighbors who might be willing from their own home?
>
> Please have consideration for homeowners who are not making a full time living off short term rentals but trying to make ends meet by renting out their home for a short period of time during the year when most neighbors are also on holiday. The better option over the on-site host would be to limit the number of days allowed during the year, i.e. 60 days max.
>
> We would also hope they do not raise the already high TOT 12% tax to 15%. This is a fair chunk out of the earnings that again go towards our property taxes, etc.
>
> Thank you for your consideration in this matter and looking out for the little guys in Malibu.
>
> Sincerely,
>
> Jo & Colin Drummond
>
> CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

Date Received 7/28/20 Time 8:00 AM
Planning Commission meeting of 7/29/20
Agenda Item No. 1A
Total No. of Pages 1

Kathleen Stecko

Received
7/28/20
Planning Dept.

From: Dancestarmalibu
Sent: Tuesday, July 28, 2020 5:41 PM
To: Jeffrey D Jennings; John Mazza; Chris Marx; Steve Uhring; Kathleen Stecko
Subject:

Malibu Planning Commission,

I have a unique take on the City of Malibu Short Term rentals. I am a Malibu business owner and have a Dance Studio in the Lumber Yard. I rent an apartment on Malibu Road and have been a renter for close to 10 years in various multi-family buildings on the road. Right now I live in a building that has 2 short term rentals above me, the building to north has 3 short term rentals, and the building to the south has 1 short term rental. I wanted to let you know that all of these buildings are professionally managed and it does NOT bother me at all, I embrace it. The guests are all extremely professional and amazing people. The building I live in now, constantly has cosmetic upgrades to it all the time and the buildings around me are looking better and better. The landlords who have short term rentals take better care of their buildings because of the reviews they get. I am a long term tenant in my current building and I get all the benefits of short term rentals. I get a nicer place to live, new appliances, better laundry machines, a freshly painted building every year, a full time maintenance crew that cleans the common area every few days, my windows are professionally cleaned every few days, and the list continues. I read that you are trying to reduce the short term rentals and impose harsh restrictions. There are so many hosts/landlords that work so hard and have no problems. Harsher restrictions should only be on those hosts that cause problems. An onsite host is not needed at my building. It would be a complete waste and a huge loss to the city. I see so many families come every year to the beach who couldnt afford living in Malibu long term. We should let these families continue to come to Malibu and generate TOT tax revenue and help local Malibu business owners like myself. Many of the short term renters book my various Dance classes or ask for private lessons. It is so hard to find new business in Malibu and short term rentals brings me so many people who want to spend money. Please do not shut off this resource! There are great hosts out there!

C. Seaman

Kathleen Stecko

Subject: Short Term Rentals Malibu

Received
7/29/20
Planning Dept.

From: Danelle Joy Leverett
Sent: Wednesday, July 29, 2020 2:37:20 PM
To: Justine Kendall <jkendall@malibucity.org>
Subject: Short Term Rentals Malibu

Date Received 7/29/20 Time 3:00 PM
Planning Commission meeting of 7/29/20
Agenda Item No. 1A
Total No. of Pages 2

Dear Justine,

We are writing to share our special story about Malibu and how short term rentals have changed our life for the better. We hope you will consider keeping short term rentals after reading our perspective.

In 2013, we came to stay in Malibu in a short term home rental on Broadbeach. We were staying with our dear friend Colbie Caillat who had rented the house to record an album in. This short stay in Malibu forever changed our lives. We fell in love with the community, Sunlife and the vibe of this quaint and gorgeous town. Weeks later we bought our our home, which we still own, in Corral Canyon. Short term rentals encouraged us to BUY a home in Malibu! We loved staying in someone else's home and therefore wanted to provide that same experience for other families. We have enjoyed living in one of our favorite cities in the world! However, we only get to use the house about 1/2 of the year since we are in the entertainment industry and work in Nashville.

We signed up for Airbnb about 5 years ago. We have had STRICT rules. NO parties! No big gatherings! People that stay in our house are not even allowed to be outside chatting post 9PM. We have security cameras that enable us to monitor the situation and we have NEVER had one single noise complaint. We understand that our neighborhood is a peaceful zone that deserves to be respected. We want to stay friendly with our neighbors so that when we return to California to stay, as we do for a few months every year, the vibrations are only positive. We do NOT rent to anyone under 25. We vet people we are renting to: people with BAD reviews are a NO go. We monitor parking spots so that they know exactly where they can be/not be. Bottom line is, we take short term rentals and being a respectful host very serious! Also, we own only ONE house that we Airbnb. I do think there should be laws against people buying up several homes and only using them for short term rentals.

It would break our hearts and bank if short term rentals were banned. Many people like ourselves would be in a position to potentially sell our home and leave Malibu due to expenses. Furthermore, there would not be a viable option for us coming to visit in the future with our families. There are only a few hotel options and they are not affordable. They also do not allow for a space where families can commune and make memories together. It's just far too expensive for most of society.

The economy of Malibu would suffer GREATLY if short term rentals are banned! We send all of our guests to our favorite restaurants and grocery stores. PLEASE think about all of the small restaurants that may not be able to stay afloat with out families eating out during the week. Especially during off-season. Since moving to Malibu in 2013, we have witnessed the booming growth of the local Malibu economy, even in the midst of terrible hardships including the fires and now Covid 19.

Last but not least- I do think it's important to share that our home was used to house many homeless people for FREE after the fire. We let people stay for over 6 months and didn't charge a dime. That was through

airbnb open homes which is an amazing program that helps provide free housing during natural disasters etc. If short term rentals go away, we could never afford to step UP in moments like that that may arise in the future.

We %100 support rules being implemented. In fact, we would love to help set the standard and have many ideas on how to allow short term rentals to be a functional and beautiful part of the Malibu culture. I come from a family of real estate that has had short term rental properties where 1000's of families have made timeless memories in Taos, NM. Over the last 30 years, I have learned what works and doesn't work when operating a business like this.

We hope this email finds you all well and that you consider our perspective. And like I said, we would love to be an instrumental part in setting up new guidelines since we have had literally NO noise complaints from neighbors in the history of the 5 years we have rented our home. Short term rentals MUST stay ... please!

Sincerely,

Nelly Joy Reeves

Kathleen Stecko

Subject: STRO

Received
7/6/20
Planning Dept.

From: Dennis Seider
Sent: Friday, July 3, 2020 10:23 AM
To: Planning Commission <planningcommission@malibucity.org>
Cc: Alan Armstrong
Subject: STRO

Hi
Please do not ban whole house rentals as appears to have been done in SM; families need a safe place all of the guests can stay together without the owner in the house. Less severe restrictions can better promote neighborhoods.
Thanks
Dennis

Sent from my iPhone
DENNIS J SEIDER

Kathleen Stecko

Subject: Planning Commission - Wed, July 29th Meeting Agenda & Notice of Availability of LCPA Materials - Short-Term Rentals

Received
7/20/20
Planning Dept.

From: Dennis Seider
Sent: Sunday, July 19, 2020 2:43 PM
To: Kathleen Stecko; Bonnie Blue; Karen Farrer; RICK MULLEN; Skylar Peak; Mikke Pierson; Jefferson Wagner
Subject: Re: Planning Commission - Wed, July 29th Meeting Agenda & Notice of Availability of LCPA Materials - Short-Term Rentals

Dear City Council, Bonnie and Kathleen:

Please read this comment into the record and make this email part of the record.

I have owned my home on Latigo Shore Dr. for over 40 years and have lived there and rented it short and long term the entire time. I appreciate the need for preserving neighborhood and community tranquility. I have never had nor been an on site manager and never needed one.

Because of my experience I think the STR proposal goes too far in requiring a manager to live "on site"; when clients rent a complete house as most do in Malibu they do not, for reasons of health, privacy and family, want a stranger living on site with them as the proposal seems to require:

In the section regarding the "designated operator vs. primary resident – the Santa Monica ordinance requires that the primary resident (which can be the owner OR a renter) of the property to live onsite for the duration of the short-term rental. The draft ZTA/LCPA tracks the Council's goal of onsite monitoring but provides limited flexibility by allowing the property owner to assign a "designated operator" to live onsite instead of the owner, so long as the designated operator is authorized to: (1) resolve any nuisance or compliance issues, (2) produce records, and (3) allow code enforcement officers to enter the property."

I suggest that a designated operator be one that lives within ten minutes of the STR who can and will respond to the rental property when requested and "...is authorized to: (1) resolve any nuisance or compliance issues, (2) produce records, and (3) allow code enforcement officers to enter the property.". They do not need to live in the same house or be on site. An on site requirement will effectively preclude most rentals as most homes do not have accommodations for an on site manager. The net effect of taking these homes out of the rental pool is to reduce public access to the beach without any counterbalancing benefit. It also runs counter to the Coastal Act mandate to provide public access to the beach.

For this reason please amend the proposal to require only that the manager be within a 10 minute commute of the home and be authorized to respond as statutorily required rather than be on site.

Thank you for your kind consideration.
Dennis

Sent from my iPhone
DENNIS J SEIDER

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

Date Received 7/20/20 Time 3:00 PM
Planning Commission meeting of 7/29/20
Agenda Item No. 1A
Total No. of Pages 1

Kathleen Stecko

Subject: Planning Commission - Wed, July 29th Meeting Agenda & Notice of Availability of LCPA Materials - Short-Term Rentals
Attachments: Preliminary CCC Comments 7.29.20_Exhibit A - LCPA rev.docx.PDF.pdf

Received
7/29/20
Planning Dept.

From: Venegas, Denise@Coastal <Denise.Venegas@coastal.ca.gov>
Sent: Wednesday, July 29, 2020 11:23 AM
To: Bonnie Blue <bblue@malibucity.org>
Cc: Christensen, Deanna@Coastal <Deanna.Christensen@coastal.ca.gov>
Subject: RE: Planning Commission - Wed, July 29th Meeting Agenda & Notice of Availability of LCPA Materials - Short-Term Rentals

Hi Bonnie –

Thanks for providing us the opportunity to review and provide comments on the City's LCP Amendment for STRs. Please see the attached preliminary comments and edits to the City's draft STR ordinance. Please let me know if you have any questions.

Thanks,
Denise

Denise Venegas
Coastal Program Analyst
California Coastal Commission
South Central Coast District
89 South California Street, Suite 200
Ventura, CA 93001
Denise.Venegas@coastal.ca.gov | (805) 585-1800

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

Date Received 7/29/20 Time 11:30 AM
Planning Commission meeting of 7/29/20
Agenda Item No. 1A
Total No. of Pages 8

EXHIBIT A

LOCAL COASTAL PROGRAM AMENDMENT

A. Land Use Plan (LUP) Chapter 5 (New Development), Section C (Land Use Policies), Subsection 2 (Land Use Designations) is hereby amended to read as follows:

RURAL RESIDENTIAL (RR): The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City. The following maximum residential density standards shall apply:

RR1	One dwelling unit per acre
RR2	One dwelling unit per 2 acres
RR5	One dwelling unit per 5 acres
RR10	One dwelling units per 10 acres
RR20	One dwelling unit per 20 acres
RR40	One dwelling unit per 40 acres

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MOBILE HOME RESIDENTIAL (MHR): The MHR designation is intended to accommodate existing mobile home parks and associated facilities. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MULTI-FAMILY RESIDENTIAL (MF): The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted. Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City, up to a maximum of two dwelling units per parcel.

B. LUP Policy 5.20 is amended to read as follows:

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

C. LUP Policy 2.34 is amended to read as follows:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

D. Local Implementation Plan (LIP) Section 2.1 is amended by adding the following definitions, inserted in alphabetical order, or replacing where there is an existing definition:

DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is authorized by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and

B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and

C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling ~~unless permitted pursuant to a valid short-term rental permit issued by the City~~. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

Commented [CCC1]: It's not clear if the proposed language is meant to exempt the requirement for containing no kitchens or to not be rented or otherwise used as a separate dwelling.

We recommend these revisions to clarify the intent of the proposed amendment which is to allow guest houses to be used as STRs pursuant to a STR permit.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

E. LIP Section 3.3(Q) Planned Development (PD) Zone is amended to read as follows:

Q. Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development, consistent with the PD Land Use Designation in chapter 5 (Section C.2) of the Land Use Plan consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcel Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018, known as Malibu Coast Estate, and formerly known as the "Crummer Trust" parcel.

2. Permitted Uses

The uses and structures permitted in Malibu Coast Estate are as follows. Lot numbers are as identified on the "Malibu Coast Estate Planned Development Map 1" of this LIP.

a. Lot Nos. 1—5

i. One single-family residence per lot.
ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
iii. Domestic animals, kept as pets.
iv. Landscaping.
v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

…

F. LIP Section 13.4.9.1 is added to Chapter 13 (Coastal Development Permits):

13.4.9.1 Exemption for Short-term Rental of Residential Property

Short-term rental use of residential property as defined in Section 2.1 of this LIP and which meet all of the following criteria.

A. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.
B. The short-term rental use is conducted in a dwelling unit that was lawfully established as described in LIP Section 13.3(F).
C. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

Commented [CCC2]: Since short-term rental use of residential property is not a category of exemption but more of a use that is not considered development, we recommend moving this section outside of LIP Chapter 13.4 (Exemptions) and into another LIP Chapter.

G. LIP Table B – Permitted Uses is amended by inserting the following new permit type and uses:

LIP Table B – Permitted Uses

KEY TO TABLE (In addition to a coastal development permit, ~~the following~~ MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	**Permitted use**
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**

Commented [CCC3]: Not certified language. Needs to be updated to reflect certified LCP Amendment No. LCP-4-MAL-13-0241-1 (Affordable Housing/Reasonable Accommodations) as shown here. We also recommend adding STR here.

CUP	**Requires the approval of a Conditional Use Permit**
A	**Permitted only as an accessory use to an otherwise permitted use**
LFDC	**Requires the approval of a Large Family Day Care permit**
WTF	**Requires the approval of a Wireless Telecommunications Facility**
STR	**Use requires valid short-term rental permit approved by the City**
·	**Not permitted (Prohibited)**

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Single-family residential	P	P	P	P	·	·	·	·	·	·	·	·	·	**A**	·	·
Manufactured homes	P	P	P	P	·	·	·	·	·	·	·	·	·	·	·	·
Multiple-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments)	·	·	CUP	CUP	·	·	·	·	·	·	·	·	·	·	·	·
Second units	A[1]	A[1]	A[1]	A[1]	·	·	·	·	·	·	·	·	·	·	·	·
Mobile home parks	·	·	·	·	P	·	·	·	·	·	·	·	·	·	·	·
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	·	·	·	·	CUP	·	·	·	·	·	·	·	·	·	·	·
Mobile home as residence during construction	P	P	P	MCUP	·	·	·	·	·	·	·	·	·	·	·	·
Accessory uses (guest units, garages, barns, pool houses,	A[1]	A[1]	A[1]	A[1]	·	·	·	·	·	·	·	·	·	·	·	·

pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)																
Residential care facilities (serving 6 or fewer persons)	P	P	P	·	·	·	·	·	·	·	·	·	·	·	·	·
Small family day care (serving 6 or fewer persons)	A	A	A	·	·	·	·	·	·	·	·	·	·	·	·	·
USE	**RR**	**SF**	**MF**	**MFBF**	**MHR**	**CR**	**BPO**	**CN**	**CC**	**CV-1**	**CV-2**	**CG**	**OS**	**I**	**PRF**	**RVP**
RESIDENTIAL (continued)																
Large family day care (serving 7 to 12 persons)	LFDC	LFDC	LFDC	·	·	·	·	·	·	·	·	·	·	·	·	·
Home occupations	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	·	·	·	·	·	·	·	·	·	·	·	·
Short-term rental	STR[21]	STR[21]	STR[22]	STR[22]	STR[21]	·	·	·	·	·	·	·	·	·	·	·
…																

Notes:
1. Subject to Residential Development Standards (Section 3.6).
2. Subject to Home Occupations Standards [(Section 3.6(O)].
3. Use Prohibited in Environmentally Sensitive Habitat Areas.
4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use. This floor area requirement shall not apply to the Civic Center Wastewater Treatment Facility.
5. CUP for veterinary hospitals.
6. Maximum interior occupancy of 125 persons.
7. If exceeding interior occupancy of 125 persons.
8. By hand only.
9. Use permitted only if available to general public.
10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
11. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Sections 4.6.2 and 6.5(G).
12. Limited to public agency use only (not for private use).
13. Accessory uses when part of an educational or non-profit (non-commercial) use. However, residential care facilities for the elderly are limited to operation by a non-profit only.
14. CUP for facilities within a side or rear yard when adjacent to a residentially-zoned parcel.
15. Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including, but not limited to, injection wells, generators, and pump stations.

16. This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with the existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.
17. Transitional and supportive housing is permitted in the same manner as one single family residence and is subject to all the restrictions that apply to single family residential uses.
18. Transitional and supportive housing is permitted in the same manner as a multi-family residential use and is subject to all the restrictions that apply to multi-family residential uses.
19. Multi-family development associated with an affordable housing development project is permitted by right.
20. Multi-family development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3.4.5.
21. Hosted short-term rental only in RR, SF and MHR zones
22. Maximum of two dwelling units per parcel for MF and MFBF zones

Kathleen Stecko

Subject: Malibu Planning Commission Special Meeting - STR

Received
7/29/20
Planning Dept.

From: Dean Wenner
Sent: Wednesday, July 29, 2020 11:39 PM
To: Planning Commission <planningcommission@malibucity.org>
Cc: Justine Kendall <jkendall@malibucity.org>
Subject: RE: Malibu Planning Commission Special Meeting - STR

Hello,
I'm very disappointed and shocked that the Committee took motions and decided on action while ignoring public comments. It was acknowledged and shall be minuted that public comments were received, not distributed to members, and decisions made without consideration for them. At the meeting close it was stated that this needed to proceed at warp speed and another member stated we gotta move it we have an election coming.

There are major changes of use in this document, the Chair on more than one occasion asked members to not get into things and do the job they were here to do, it was clear there were closed sessions and meetings in advance of this Special Meeting, and with the virtual meeting and break taken coupled with these behaviors there was likely other input. It was noticeable that only the Assistant Attorney stayed live after he cautioned and counseled people before the break.

I make these comments as my perception is the Committee injected their own opinions into crafting and supporting crafting significant change in use and now intend to recommend not proceeding with the LCPA and circumventing the CCC. If this occurs it is a clear breach of protocols.

Unfortunately what I witnessed tonight is not action in good faith to do well by all Malibu residents. It is a campaign to essentially create a STR ban. There is still time to change this direction.

Regards,
Dean

From: Dean Wenner
Sent: Tuesday, July 28, 2020 9:25 PM
To: 'planningcommission@malibucity.org' <planningcommission@malibucity.org>
Cc: 'jkendall@malibucity.org' <jkendall@malibucity.org>
Subject: Malibu Planning Commission Special Meeting - STR

Hello,
Thank you for the mailed notice for the meeting. I appreciate the hard work and intent of each group that is conducting meetings to address the matter. What some have had to experience is unacceptable and indecent.

I've read the Commission Agenda Report included with the Meeting Agenda. It's apparent city staff has spent a lot of time on this matter and I hope my comments are taken constructively. I write this as I support taking action to improve the community however I see a level of detail, intent, and action that does not address the root problem and is more built in frustration and the opinion and politics of eliminating STRs. This document recommends added layers of regulation which are inconsistent with Malibu General Plan, MMC, LCPA, ZTA and CCC goals and objectives, penalizes good residents and the Public instead of directly addressing the bad actors, and is likely to seed further non-compliance.

We need to honor the residents, preserve owners' rights, encourage visitors while giving access to the beach community. A new permit regulation seeded in the spirit of banning STRs is not the path to success and we can do better than what is proposed. I've also attached previous comments submitted to the Malibu City Council last December that the below commentary supplements.

In general, the adoption of the Recommended Action will cause more unrest, serve as a distraction from initiating and progressing good things for the community, and will not stand up to a legal challenge. This will diminish the efforts to stop those acting poorly in defiance and disrespect of their neighbors and the community. We will spend money on legal matters instead of using funds for things that will benefit the community more. This is even more important today as budgets going forward will be reduced as a result of the pandemic. These reductions will be substantial and are yet to hit but have no delusion as it is coming. Just reference what occurred last week with the LA County Sheriff and the uproar over more service desired but a large budget reduction won't enable doing what we're used to having let alone doing more. We as a community have already demonstrated that we lack accountability measures and use existing regulation to drive the behaviors we desire. More regulation, and I contend below this is excessive regulation, will not cure the bad behavior and is more likely to cause even worse behavior should it be adopted.

This effort in Malibu is rooted in complaints and concerns about STRs with rude and loud guests and the Owner (hiding behind an LLC) not being engaged or accountable. This is what I've heard and read from previous City meetings. Prior to binding action being taken here I request the statistics be published that form the basis of the request for additional regulation.

During my awareness of this matter this effort started with a focus to collect ToT from STR Owners. Then it changed as an intent to ban STRs. Then it morphed into a Draft City document with a complex outline of requirements to severely regulate and therefore greatly restrict or effectively ban STRs. Now it has changed to adopt the Santa Monica ordinance. It appears we are not focused on addressing the root cause and that this has turned into a political matter without justifiable content to deprive Owner's property rights and reduce access to the beach community. As evidenced by the resident feedback included with the Commission Agenda Report it is clear that too much if not a majority of the feedback used to support this position is opinion, desire, and fear of what could happen. City action for such a matter must be rooted in the fact of documented complaints, the magnitude of such complaints, and ensuring that additional regulation both solves a problem needing solving and does so in a fair manner to Property Owners without over-reaching or taking inappropriate action.

With this in mind I would like us to understand our performance on the key items. Please advise and publish the following:

1. Number of complaints documented to the hotline per year since its inception
2. Item 1 broken down by neighborhood
3. Item 2 with addresses noted
4. Number of properties with OWTS
5. Number of properties with active OWTS permit
6. Number of STRs
7. Number of STRs submitting ToT
8. Amount ($) of ToT by year since inception
9. Value of ToT for City Budget collected thru Q2 2020 and projected for years end 2020 and 2021

It is important to acknowledge that all but a small number of Owners are respectful and in compliance with City and Zoning Code. There are aspects of the LCPA and ZTA that are more restrictive than needed or fair to compliant residents to meet objectives. For instance, the requirement for a host to live on property. This requirement is made in an attempt to ban rentals as most people will not travel to the coast to rent with a stranger in the same space. The LCPA and ZTA position is that properties with two or more units can have the Owner live in one of those units. That requirement drastically reduces the home stock for STR which is its' objective however this dramatically reduces the living spaces available for visitors to experience the area. As the objectives for an onsite host is to enhance and facilitate prompt corrective action, the Owner should have the right to delegate authority to a neighbor within the stated neighbor notification area, or within the immediate area on-call to self-monitor and control the property. This would meet the objective and not deprive the owner of property rights.

The Recommended Action should not be adopted as it injects a change of use with consequences that are contradictory to City and Coastal objectives by reducing coastal access and eliminating a cost effective option to improve coastal access.

The Planning Commission should recommend the City conduct further due diligence to facilitate prompt correction of the negative behavior and work within the confines of the existing regulation. There is too much hype and emotion in both this proposed regulation and much of the feedback.

The Commission Agenda Report indicates research that 446 STRs in or near Malibu exist. Is the 446 inflated to make a more dramatic point? This should simply state the number in Malibu. At 446 listings this translates to 9% of the Malibu residential

property count which is rather insignificant in count but large in regard to coastal access let alone affordable coastal access. As documented complaints through the hotline and sheriff are a very small part of the STRs (to be confirmed by requested statistics) there appears to be proposed regulation as a result of less than 1% of Malibu properties. If the data shows a larger problem in a particular neighborhood of West Malibu then the actions should reflect that and not Malibu as a whole.

The direction to adopt the Santa Monica ordinance is flawed as the intent of the Local Government differs in its' objective. Santa Monica adopted the ordinance to fix their problem which was the loss of lower cost home stock as a result of planned low cost living units being switched STRs. It did not impact access to the community as the home stock in question was developed new. The Owners switch to STRs was not done in good faith as the lower cost housing concept was used to gain new development approvals. In Malibu, both these issues are reversed in that STRs enable greater access to the beach community and coastline and in a cost effective manner which contributes to another City initiative.

I have been fortunate to spend a lot of great time in Malibu but I will recognize I have only been an Owner for 11 months. In my time looking for homes and time spent conducting diligence and spending time with locals. The Malibu area is gorgeous but not immune from human behavior. For various reasons, mostly I perceive as high cost and lack of respect for some regulation, we have a problem with a mixture of behavioral, accountability and in some cases negative character. These types of matters are best handled by individuals in the neighborhood (supported by us all) without government intervention. Honestly, government action against people with high financial means leads to game playing and not the responsive, reasonable resolution desired. Moving forward on this will not make things better and will only serve to penalize the less privileged Owners who are already respectful compliant and the general public as they will lose overnight access to the coastal community. STRs are a viable and vital method to enabling those who live far away from the coastline to visit and enjoy the recreational opportunities available at the beach and ocean.

Please see the attachment that identifies applicable sections and references of/to the General Plan, LCP, LUP, LIP, SMMNRA, OS, PRC, AND CCA which supports the above points.

I have several comments on the draft ordinance but instead of redlining the document I offer the following:

A. What is a well-intended action to create an enforcement mechanism to address bad actors has grown into an exercise of "what-if" scenarios and an emotional draw toward home-sharing and ultimately a ban on rentals. I am supportive of correcting the behavior of bad actors but am not in favor of a more restrictive ordinance that penalizes those that are acting well, reduces the rights of property owners and is inconsistent with the Malibu and Coastal Plans.
B. A layer of regulation for permitting STRs across Malibu is not justified and will not yield the outcome perceived. It is based upon a small level of occurrence, is focused in particular neighborhoods and will not improve the typical aspects justified for LA County Code Permits (Malibu Code follows LA County Code) such as property values, building safety, ensuring compliance with existing City and Zoning regulations, etc. If justified, a more focused permitting system should be put in place for particular neighborhoods where the complaints have actually been recorded.
C. Requiring a host to live onsite is not reasonable. It would require true home-sharing or would only allow STRs for multi-unit residences. This is effectively a ban and would deprive the owner of their right to rent the property in a respectful manner while respecting community concerns and current City Code and Zoning regulations. Having the Owner or his designee responsible, accountable, and accessible would be more reasonable and attainable.
D. It would be prudent to have input from ZORACES for reasons noted above before proceeding to a Special Meeting of the Planning Commission. This demonstrates an unnecessary rush for review.
E. It was clear from the last Planning Committee meeting that there was concern that if Malibu City approved and the Planning Committee rejected that the Malibu City action would stay in place. This is clearly what drove the setting of a Special Meeting and inappropriately reducing time for public review. It also is recognition of flaws in the LCPA and ZTA.
F. The new permit system and new regulations are to address nuisance issues and impacts on neighborhoods. It has not been made clear how many issues and what neighborhoods these issues are in. Such information should be disclosed for public knowledge before taking a motion to increase regulations. Although the occurrences are never acceptable, the hype and discussion seems to be much greater than the recorded incidents. The statistics are highly likely to show that documented complaints (not verbals or general emails but hotline/sheriff documented items) are low in relation to all of Malibu (not just STRs). STRs are less than 9% of the Malibu available units and the complaints are a very minor part of the STRs inferring the potential nuisance and impacts are less than 0.5% and not warranting more restrictive action in this manner.
G. Under Eligible Permit Applicants the City position is appropriate. Santa Monica allowing renters to do so is improper and goes against core values as it empowers and enables illegal subletting.

H. "Following the lead" of the Santa Monica Ordinance would mean there is a need to protect units for living and to preserve lower cost living spaces as this was the driver in Santa Monica. Intent matters. The driver here is to move toward a ban of STRs which will eliminate lower cost living spaces and reduce access to the community and the coast.

I. This document is vague in regard to approvals. As written in multiple areas, permits could be unreasonably withheld even with all other aspects complied with which is unfair. This infers that following all the criteria could still result in not obtaining a permit which will discourage people from applying.

J. More strict permit requirements for non-primary and primary residents is unfair and discriminatory. Primary and non-primary should not be treated differently. The bad actors, it is apparent they are non-primary residents or Corporations, should simply be dealt with instead of penalizing good owners/residents.

K. Requiring all offsite on-street parking via special event permit is unreasonable and will discourage people from applying. The number of house occupants and special events are already defined. Adding additional and conflicting requirements will discourage people from applying and lead to further lack of enforcement.

L. The section on enforcement, violations and penalties adds administrative action. There are actions under current code that are not enforced so it is not a deterrent to add more. My perception is that this was added to push people to apply but the "flavor" of the document will not change the behavior of the current offenders and unfairly penalizes the respectful citizens that are compliant today.

M. Requiring a person to be physically onsite from 8PM to 6AM is not realistic and over reaching as such a regulation impedes ones right to come and go. Having the Owner or designee available and responsible for their actions is reasonable.

N. The outline for the MSTR is proper in this regard as it allows the "neighborhood" (other units) to self-monitor and control. This same fundamental concept should apply to all STRs.

O. Under key requirements (pg5 of 11) delete the last sentence in the 3rd bullet for reasons noted in this commentary.

P. STR General Requirements

Q. Item 10 – must be a justified reason in line with MMC rationale

R. Item 12 – repeats MMC and should be removed from here. As an environmental issue this is required under MMC and should not only be enforced under an STR.

S. Item 13 – placing more strict requirements on STRs than done with similar business in the City is unnecessary, biased and not appropriate. It is consistent with a campaign to ban STRs instead of fair application of City Code.

T. Grounds for Denial and Revocation of Permit – These are repetitive with current MMC and additional regulation as presented is not necessary and will only have an impact on law-abiding and decent members of the community by paying more fees and getting nothing in return. It will not change the behavior of current offenders and therefore is unfair and must not be implemented. Such action will not encourage participation and achievement of improved community behavior.

U. Stating no STRs may be conducted during an appeal will not be enforceable as the final decision in commercial cases does not occur until after a judgment is entered and an appeal of that judgment is taken. This is especially the case when the Local Ruling is directly contradictory to the Coastal Act and the writings of the CCC. Malibu City is likely to held accountable for lost revenue if done.

V. Proposed STR Fees must be disclosed here as without doing so they can be set at unreasonable levels in an attempt to ban STRs at a later date.

W. Administration and Code Enforcement – Environmental Review

X. Public Resources Code Section 21080.9 is pursuant to Division 20 (commencing with Section 30000) and is applicable here. The intended acts in regard to permitting STRs in this fashion impacts the quality of the coastal zone, the utilization of the coastal zone and the rights of private property owners. As a result, it does have the potential to cause significant effect on the environment. Therefore CEQA does apply and the exemption does not apply.

30001.5.

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:
(a) Protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.
(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

Aside from the summary commentary there has also not been adequate time to review the entirety of the document redlines. Especially with Special Meetings like this being called it is perceived there is a sudden rush to push this through as it's election time.

We have a character, behavioral, and accountability problem. Additional and more restrictive regulation will not fix it. In fact, I would forecast that this new regulation will seed more non-compliance, reduce City revenues, and not move the needle on enforcement in regard to a very small part of the community conducting themselves in a compliant manner. It is not in the best interest of the community at this time. We need action that will result in improved behavior, increased accountability, optimized revenue for the city and its residents to prosper, and satisfying our commitment for access to the coastal area.

I hope and trust this has come across in a positive and respectful manner and that you will give deep consideration to returning this to the City for different action.

I know it tests one's patience when people object and offer no ideas for solution. With the right approach we can satisfy the objectives of Malibu City, do well for its' community and satisfy the Coastal Act. STRs are a unique, legal solution as existing under Code today. However, this Recommended Action is based in the following aspects that are not proper or acceptable:

A. Regulation based more in perceived impacts than data indicative of a city-wide problem
B. The Recommended Action would deprive affected property owners of their property right to rent on a short-term basis.
C. Permitting (License requirement) impairs the right to rent which is an integral right of private property ownership.
D. Permitting (License requirement) improperly treats short-term rentals as an unlawful activity and requires a privilege of license to rent which is contrary to the principles of private property. STRs are legal.
E. Carte Blanche mandatory entry requirements for code enforcement personnel is not proper. Privacy of owners is a fundamental right.
F. Whether a home is occupied by an owner or renter, for long term or short term use, the use is of a home for living purposes. A zoning ordinance that would attempt to regulate homes differently based solely on the occupants' interest in the property (owner/renter), or the duration of the occupancy (long/short term) would be a violation of the fundamental principle that zoning deals with land use, not the user of the land and therefore be a breach in itself.
G. Short term and long term rentals are both residential use.
H. The requirement for the owner/delegate to respond in-person to complaints is troublesome as under some circumstances completely out of owner/delegate control (such as people arriving at the wrong address or on the property illegally, etc.) it may be more appropriate for code enforcement matters to be handled by a trained authority or code enforcement official.

I support developing reasonable and balanced regulation that is geared to address the specific issues in our community to allow for vacation rentals, target and resolve current issues and problems, and balance various viewpoints and interests. I know this is possible. The focus as noted in the Commission Agenda Report is:

- Monitor Activity (good Owners, compliant direction and expectations)
- Prevent nuisance issues from arising (impacts on neighborhoods)
- Facilitate prompt correction of any problems that develop (Promote and reward action)

The following outline would be a more productive, efficient and sustainable method of achieving performance consistent with Malibu City General Plan, City Code, Local Coastal Program, Zoning Code, and the California Coastal Commission. It would also not deprive owners of their property rights, and create a healthy balance of benefits for all including positive and reliable city income. It would achieve:

- Publish the key performance items (1-9) above
- Community know and be able to act in regard to specific addresses/areas
- Facilitate compliance with current Codes
- Optimizing access to and along the coast (LCP and CCC)
- Maximize public recreational opportunities in the coastal zone (LIP)
- Be a source of reliable city income as a result of the privilege of occupancy (MMC)
- Create more positive impacts and appreciation for the area (General Plan and MMC)

Thank you for your time and consideration of the above,
Dean Wenner

General Use Plan

- Malibu will provide passive, coastal-dependent and resource-dependent visitor-serving recreational opportunities (at proper times, places and manners) that remain subordinate to their natural, cultural and rural setting, and which are consistent with the fragility of the natural resources of the area, the proximity of the access to residential uses, the need to protect the privacy of property owners, the aesthetic values of the area, and the capacity of the area to sustain particular levels of use.

- All of these elements, taken together, establish a comprehensive plan, setting forth a consistent guide to future development in the City. All development plans, zoning and subdivision ordinances, coastal development permits and conditional use permits of the City are required to be consistent with the General Plan.
- In addition, the General Plan relates to several requirements of the California Coastal Act; Appendix B to this General Plan provides a cross-reference of General Plan goals, objectives, policies and implementation measures that directly relate to requirements of the Coastal Act.
- The Malibu Land Use Element is designed to provide maximum social, economic and environmental benefits for City residents through planned distribution, location and intensity of land use.
- An LCP consists of land use plans, zoning ordinances and zoning district maps. LCPs must contain a specific public access component to assure maximum public access to the coast and that public recreation areas are provided.
- The existing distribution and extent of development in Malibu is a reflection of the planning practices of both the County of Los Angeles and the California Coastal Commission. The City is dominated by three land uses—open space (approximately 15% of the City), vacant land (approximately 60% of the City), and residential land (22%).
- 4935 Units Residential – 20.8% of land
- There are five motels and one hotel within the City. These land uses are identified as visitor-serving uses by the Coastal Commission and contribute to the satisfaction of required facilities for the Local Coastal Program.

- LU Policy 3.1.2: The City shall encourage appropriate passive uses of parks and beaches such as biking, bird watching, hiking, horseback riding, kayaking, scientific study, surfing, swimming and tide pool viewing.
- LU Implementation Measure 62: Work with public agencies and private recreational clubs and groups to promote use of parks and beaches for passive recreation.

- LU OBJECTIVE 3.2: VISITOR-SERVING RECREATIONAL OPPORTUNITIES CONSISTENT WITH THE RESIDENTIAL CHARACTER OF MALIBU.
- LU Policy 3.2.1: The City shall permit the development of commercial recreational and visitor servicing facilities at suitable locations which provide convenient

public access, adequate infrastructure, convenient parking and, when feasible, are located where existing low cost recreational uses will be enhanced.

- LU OBJECTIVE 4.4: SUCCESSFUL BUSINESSES APPROPRIATE TO MALIBU.
- LU Policy 4.4.1: The City shall encourage establishment and continued operation of small neighborhood and community serving businesses.
- LU Policy 4.4.3: The City shall regulate design of new bed and breakfast inns to foster "country-inn type" establishments and regulate the size and design of other hotel development to ensure development compatible with a rural residential community and discourage convention hotel developments by limiting on the same site ancillary uses such as banquet and meeting rooms and limiting restaurants to a capacity necessary to serve guests of the hotel only.
- LU Policy 4.4.4: The City shall permit commercial uses such as home offices, art studios, family day care facilities, equestrian and other similar uses in residential areas if they do not result in any substantial diminution in the quiet rural residential character of the area.

- LU Implementation Measure 84: Develop a business licensing program to assure compliance with zoning and safety codes and to raise revenue to promote the business community. – TOT Permit done and meets the requirement - no need to over-reach
- LU Implementation Measure 85: Support the Chamber of Commerce's Shop Malibu campaign and other public information programs designed to support local businesses and contractors.
- 1.4.6 LU GOAL 6: PRIVATE PROPERTY RIGHTS PROTECTED
- LU OBJECTIVE 6.1: THE RIGHT TO REASONABLE USE OF ONE'S PROPERTY INCLUDING THE RIGHT TO QUIET ENJOYMENT AND PRIVACY PROTECTED.
- LU Policy 6.1.1: The City shall use development standards and procedures that protect the property owners' reasonable use of their land consistent with the goals and policies of this General Plan.
-
- 2.3 Description of Existing Recreation Facilities (Could not otherwise be done)
- 2.3.0 In General Malibu is located within the boundaries of the SMMNRA which extends from Griffith Park in the City of Los Angeles to Pt. Mugu in Ventura County and is comprised of City, State, County, and Federally owned park lands and relies on cooperation between managing agencies and private land owners. Recreation areas are either publicly owned and operated by governmental agencies or are privately owned and operated, yet available to the public. Most recreation areas within the City of Malibu and its surrounding area are public beaches or mountain parks. The emphasis at these sites is on water oriented activities at beaches or on interpretation of the natural environment in the mountains. Figure OS-1 displays the existing public recreation facilities within and adjacent to the City of Malibu.

- 2.3.8 Private Recreation Facilities Private recreation consists of privately owned facilities which generally require some form of membership or residence. Boating, tennis, and riding clubs exist throughout the. City. Beach clubs encompass beaches for private use by members. In addition, there are a number of privately owned camps which include hiking, camping, picnicking, and other outdoor recreational opportunities. Among these are Calamigos Star C Ranch Camp, Jewish Centers Association, Bloomfield Foundation for the Junior Blind, and the Salvation Army. Other private recreation facilities include the Malibu Tennis Club and the Malibu Riding and Tennis Club. Organized groups in Malibu that currently provide recreational opportunities include the Malibu Recreational Council, soccer associations, baseball leagues, softball leagues, football leagues, equestrian clubs, senior citizen groups, and religious groups. Commercial recreation developments or facilities also serve public recreational needs. Sailing, surfing, windsurfing, and scuba instruction and equipment rentals are available at locations in the Malibu Pier area. Other commercial recreation activities include chartered boats, fishing, and horseback riding. Visitor-serving facilities are defined to include private and public developments that provide accommodations, food and commercial-recreation developments, such as shopping, eating and amusement areas for tourists. One recreational vehicle (RV) park—the Malibu RV Park—is located in Malibu near Malibu Beach.
- 2.5.1 OS GOAL 1: AN ABUNDANCE OF OPEN SPACE CONTRIBUTING TO A RURAL, NATURAL ENVIRONMENT CONSISTENT WITH THIS OPEN SPACE MANAGEMENT PLAN
- OS OBJECTIVE 1.1: AMPLE AND DIVERSE PUBLIC PARKLAND AND OPEN SPACE, INTEGRATED BY CIRCULATORY AND VISUAL LINKS, TO CREATE A RURAL, OPEN FEELING
- OS Policy 1.1.3: The City shall preserve, protect, and enhance the character and visual quality of natural open space as a scenic resource of great value and importance to the quality of life of residents and to the enhancement of the scenic experience of visitors.
- OS OBJECTIVE 2.2: ADEQUATE RECREATIONAL FACILITIES TO ACCOMMODATE RESIDENTS AND VISITORS.
- OS Implementation Measure 30: Seek new reliable, secure and predictable funding such as fees for services, development fees or a nominal City-wide tax, to facilitate public recreation.
- OS OBJECTIVE 2.3: A FIRST-CLASS SYSTEM OF RECREATIONAL AND CULTURAL PROGRAMS.
- OS Policy 2.3.5: The City shall continue Malibu's traditional emphasis on enjoyment of shoreline and ocean sports and recreation.
- OS Policy 2.3.6: The City shall strive to make recreation programs accessible and affordable.
- OS Implementation Measure 32: Cooperate with state and federal parks agencies in the Santa Monica Mountains National Recreation Area in providing programs for people of all ages to: (a) enhance understanding of fragile natural processes; (b) engender appreciation and enjoyment of natural resources in the area; (c) increase awareness of

how to safely enjoy natural areas while protecting natural resources for their own sake and for the enjoyment of others and for future generations; (d) encourage awareness of the area's rich Native American period and more recent cultural history.

- OS Implementation Measure 40: Develop a system of graduated visitor use standards, with more active use permitted where the environment is less fragile and less active or more passive uses permitted in more sensitive natural habitat areas.
- OS OBJECTIVE 3.2: ACCESS TO THE BEACH AND SHORELINE CONSISTENT WITH THE PROTECTION OF COASTAL RESOURCES AND CONSERVATION.
- OS Policy 3.2.1: The City shall require reasonable and equitable beach access for the public, balancing the rights of the individual property owner and the public's right of access.

Local Implementation Plan
CHAPTER 12—PUBLIC ACCESS ORDINANCE

A. The purpose of the Public Access Chapter is to achieve the basic state goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act codified at sections 30000 through 30900 of the California Public Resources Code (PRC). PRC Section 30001.5(c) states that public access both to and along the shoreline shall be maximized consistent with sound resource conservation principles and constitutionally protected rights of private property owners.

B. To implement the public access and recreation policies of Chapter 3 of the Coastal Act (Sections 30210-30255).

C. To implement the certified land use plan of the City's Local Coastal Program which is required by Section 30500(a) of the Act to include a specific public access component to assure that maximum public access to the coast and public recreation areas is provided.

Local Implementation Plan
CHAPTER 12—PUBLIC ACCESS ORDINANCE

12.10. NEW LUXURY OVERNIGHT ACCOMMODATIONS

A. The City may approve new luxury overnight visitor accommodations if the evidence shows and the City finds, that the project provides a component of lower cost overnight visitor accommodations, such as a campground, RV park, hostel, or lower cost hotel or motel rooms. The lower cost overnight accommodations may be provided, either onsite, offsite, or through payment of an in-lieu fee to the City for deposit into a fund to subsidize the construction of lower cost overnight facilities in the Malibu-Santa Monica Mountains Coastal Zone area of Los Angeles County or Ventura County. The applicant shall be required to provide lower cost overnight accommodations consisting of fifteen (15) percent of the number of luxury overnight accommodations that are approved. Luxury overnight accommodations shall be defined as the point at which the cost of an overnight room exceeds 120 percent of the median cost of an overnight room for all overnight accommodations in the City of Malibu.

Kathleen Stecko

Subject: Short-Term Rental Ordinance - City Council Meeting Dec 3

Received
7/28/20
Planning Dept.

From: Karen Farrer
Sent: Monday, December 2, 2019 9:53 AM
To: Dean Wenner
Subject: Re: Short-Term Rental Ordinance - City Council Meeting Dec 3

***** External Email ***** This email originated from outside of our organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe. NEVER give out your user ID or password...

Dear Mr. Wenner -

Thank you for taking the time to write to me. As with all agenda-related correspondence, it will become part of the record and be forwarded to the rest of the council.

I am in wholehearted agreement with you on your assessments and predictions and I thank you for the suggestions.

Please feel free to contact me going forward regarding issues coming before the council. I hope when you will consider attending city meetings - council, planning commission, etc., as time permits. Your thoughtful, constructive, reasonable input is welcome anytime.

Best regards,

Karen Farrer

Mayor
City of Malibu

> On Dec 2, 2019, at 7:05 AM, Dean Wenner wrote:
>
> Hello,
> Thank you for the mailed notice for the meeting. I was shocked by what some people shared at the last meeting and no one should have to tolerate some of the things that were displayed.
>
> My wife and I have had the good fortune to stay in Malibu many times over the last 10+ years and we have spent a lot of time all over the California coastline. I am an engineer, am responsible for engineering and construction of industrial projects and have had the good fortune of doing projects in El Segundo, Torrance and Martinez, California. After watching for a number of years, in August we purchased a property in the Big Rock area of Malibu. We love it and have planned on rentals supplementing our income to make such a purchase a reality. We will retire in Malibu and look forward to that happening in the not too distant future.
>
> I'm unable to attend the Dec 3 meeting. However I do wish to submit comments of both a general and detailed nature.
>
> I've read both Ordinance No. 458 and Resolution No. 19-53. It's apparent city staff has spent a fair amount of time on this matter and I hope my comments are taken constructively. I write this as I support taking action to improve the community however I see a level of detail, intent, and action that is making this too complex to take root, be effective, and meet the objective.

In general, the action to adopt the Ordinance is premature and will not stand up to a legal challenge. This will diminish the efforts to stop those acting poorly in defiance and disrespect of their neighbors and the community. There are aspects of the draft ordinance that are more restrictive than needed or fair to compliant residents to meet objectives and relying on the severability section will not be effective. In prior correspondence the California Coastal Commission made it clear that regulation in the coastal zone must occur within the context of the Local Coastal Program and/or be authorized pursuant to a coastal development permit. I believe Mr. Peak understands this well as he was the lone negative vote in the last City Council Meeting and I can see from tenure that he was the only council member in place as far back as 2016 in regard to some of the correspondence. While others looked puzzled by his vote it was clear to me he wanted to say more but chose not to do so in the public forum as it could help the bad actors and deflate the hopes and dreams of the good people impacted by the bad actors. I applaud the City Council for being motivated to help and take action but the City should not proceed knowing that adoption of the Ordinance against the written advice/direction of the CCP and not fulfilling the LCP and CDP requirements is essentially an unlawful action in itself and not consistent with City Values. It simply injects a change of use and adopting this in this manner could very well hurt the best of intent within the effort underway.

I have several comments on the draft ordinance but instead of redlining the document I offer the following:

- The document has grown significantly from its' previous draft and I perceive what is a well-intended action to create an enforcement mechanism to address bad actors has grown into an exercise of "what-if" scenarios and an emotional draw toward home-sharing and ultimately a ban on rentals. I am supportive of correcting the behavior of bad actors but am not in favor of a more restrictive ordinance that penalizes those that are acting well.
- Previous research data within the City's report indicates a small percentage of properties (somewhere between 30-50% I recall) meet the criteria for OWTS let alone other aspects. As the draft ordinance has grown with requirements it will discourage people from applying.
- This document is vague in regard to City Manager approvals. As written in multiple areas, permits could be unreasonably withheld even with all other aspects complied with which is unfair. This infers that following all the criteria could still result in not obtaining a permit which will discourage people from applying. Please advise if this is indeed the intent of the text.
- More strict permit requirements for non-primary and primary residents is unfair and discriminatory. Primary and non-primary should not be treated differently. The bad actors, it is apparent they are non-primary residents or Corporations, should simply be dealt with instead of penalizing good residents.
- Requiring all offsite on-street parking via special event permit is unreasonable and will discourage people from applying. The number of house occupants and special events are already defined. Adding additional and conflicting requirements will discourage people from applying and lead to further lack of enforcement.
- The section on enforcement, violations and penalties adds administrative action. There are actions under current code that are not enforced so it is not a deterrent to add more. My perception is that this was added to push people to apply but the "flavor" of the document will not change the behavior of the current offenders and unfairly penalizes the respectful citizens that are compliant today.

We have a character, behavioral, and accountability problem. Additional and more restrictive regulation will not fix it. In fact, I would forecast that this new regulation will seed more non-compliance, reduce City revenues, and not move the needle on enforcement in regard to a very small part of the community which is the main objective of all this. It is not in the best interest of the community at this time. We need action that will result in improved behavior, increased accountability, and optimized revenue for the city and its residents to prosper. I hope this has come across in a positive manner and I hope my comments will lead to different action.

I know it tests one's patience when people object and offer no ideas for solution so I offer the following:
I support developing reasonable and balanced regulation that is geared to address the specific issues in our community to allow for vacation rentals, target and resolve current issues and problems, and balance various viewpoints and interests. I do think this is possible. With the number of properties enrolled in the ToT process I know it's possible. We need an effort to keep regulation more simple and enforceable while supplementing such legislation with a collaboration amongst the Owners/Property Managers with the City to implement another

simple plan to the satisfaction of all law and code abiding residents. In fact, this can and should be done without any additional regulation at this time:

1. Form an Association of Property Managers/Owners with a sound and motivated leader to champion the effort
    a. Membership starting with the ToT list
2. Use a registration form which includes the names and ages of all guests and vehicle information
3. Use a common guest code of conduct which is sent with each commitment and signed either prior to or at check-in
4. Oversee a professional, uniformed security service which patrols all rental properties and provides:
    a. Off duty, uniformed police officers on call 365 days/year, 24 hours/day
    b. Heightened patrols on weekends, peak weeks/times, holidays, "event" weekends
    c. Random patrols including physical inspection of properties
    d. 24/7 manned telephone number for neighbors to call (can transfer responsibility for the current number handled by the City)
5. Distribute a list of all guest registrations and rented properties to the security service
6. In addition to the permit revenue, implement an Association charge to each rental property
    a. Assessing roughly $50/month or $600/year annual fee funds:
        i. Managing and coordinating the security service
        ii. Publicizing and advertising the association plan
        iii. Interacting with the security service when situations arise with guests or property owner associations
7. The above is a proven plan that would take some effort to implement however non-governmental entities are much more nimble, and less susceptible to legal challenges as action is "in the moment" and direct (delayed action enables the legal and avoidance tactics by offenders)
    a. It is a form of the local community self-managing itself which will be more effective (and has been proven to be so).
    b. With the current level of ToT participants the funding will be fine and get better over time while engaging even more local business, and improving neighborhoods and the community as a whole
    c. Enforcement and "teeth" are the major obstacles being faced today
        i. Additional formal patrols that lack authority to take real action only embolden the offenders
        ii. Funding for additional patrols is hard to obtain – enforcement faces the same issues
        iii. An association motivated to make it right and enabling a security force which understands the nature of vacation rentals as well as the importance of maintaining strong guest relations and equally strong community relations is the differentiator.
        iv. Bottom line…people taking care of people and unlocking the best of all things

These items are consistent with items within the draft ordinance. The main difference is its simplicity in that management of the details is within a non-governmental group that can act differently, be flexible and be more action oriented/responsive. This is not intended to be a swipe at the Council. It is recognition that public/private groups can act in different and more efficient ways to get results. From what I can tell this matter is 4+ years in the making and I believe desired results can be achieved with a different approach.

If the City is open to considering the above items and taking a different tact I am willing to offer my involvement including ideas from another program (above) that was born from similar circumstances and is working in the Galveston, Texas area (beach community south of Houston somewhat similar to Malibu). Thank you for your time and consideration of the above,
Dean Wenner

Kathleen Stecko

Subject: Malibu Planning Commission Special Meeting - STR
Attachments: STR Reference Outline.docx

Received
7/28/20
Planning Dept.

From: Dean Wenner
Sent: Tuesday, July 28, 2020 7:25 PM
To: Planning Commission <planningcommission@malibucity.org>
Cc: Justine Kendall <jkendall@malibucity.org>
Subject: Malibu Planning Commission Special Meeting - STR

Hello,
Thank you for the mailed notice for the meeting. I appreciate the hard work and intent of each group that is conducting meetings to address the matter. What some have had to experience is unacceptable and indecent.

I've read the Commission Agenda Report included with the Meeting Agenda. It's apparent city staff has spent a lot of time on this matter and I hope my comments are taken constructively. I write this as I support taking action to improve the community however I see a level of detail, intent, and action that does not address the root problem and is more built in frustration and the opinion and politics of eliminating STRs. This document recommends added layers of regulation which are inconsistent with Malibu General Plan, MMC, LCPA, ZTA and CCC goals and objectives, penalizes good residents and the Public instead of directly addressing the bad actors, and is likely to seed further non-compliance.

We need to honor the residents, preserve owners' rights, encourage visitors while giving access to the beach community. A new permit regulation seeded in the spirit of banning STRs is not the path to success and we can do better than what is proposed. I've also attached previous comments submitted to the Malibu City Council last December that the below commentary supplements.

In general, the adoption of the Recommended Action will cause more unrest, serve as a distraction from initiating and progressing good things for the community, and will not stand up to a legal challenge. This will diminish the efforts to stop those acting poorly in defiance and disrespect of their neighbors and the community. We will spend money on legal matters instead of using funds for things that will benefit the community more. This is even more important today as budgets going forward will be reduced as a result of the pandemic. These reductions will be substantial and are yet to hit but have no delusion as it is coming. Just reference what occurred last week with the LA County Sheriff and the uproar over more service desired but a large budget reduction won't enable doing what we're used to having let alone doing more. We as a community have already demonstrated that we lack accountability measures and use existing regulation to drive the behaviors we desire. More regulation, and I contend below this is excessive regulation, will not cure the bad behavior and is more likely to cause even worse behavior should it be adopted.

This effort in Malibu is rooted in complaints and concerns about STRs with rude and loud guests and the Owner (hiding behind an LLC) not being engaged or accountable. This is what I've heard and read from previous City meetings. Prior to binding action being taken here I request the statistics be published that form the basis of the request for additional regulation.

During my awareness of this matter this effort started with a focus to collect ToT from STR Owners. Then it changed as an intent to ban STRs. Then it morphed into a Draft City document with a complex outline of requirements to severely regulate and therefore greatly restrict or effectively ban STRs. Now it has changed to adopt the Santa Monica ordinance. It appears we are not focused on addressing the root cause and that this has turned into a political matter without justifiable content to deprive Owner's property rights and reduce access to the beach community. As evidenced by the resident feedback included with the Commission Agenda Report it is clear that too much if not a majority of the feedback used to support this position is opinion, desire, and fear of what could happen. City action for such a matter must be rooted in the fact of documented complaints, the magnitude of such complaints, and ensuring that additional regulation both solves a problem needing solving and does so in a fair manner to Property Owners without over-reaching or taking inappropriate action.

With this in mind I would like us to understand our performance on the key items. Please advise and publish the following:

1. Number of complaints documented to the hotline per year since its inception
2. Item 1 broken down by neighborhood
3. Item 2 with addresses noted
4. Number of properties with OWTS
5. Number of properties with active OWTS permit
6. Number of STRs
7. Number of STRs submitting ToT
8. Amount ($) of ToT by year since inception
9. Value of ToT for City Budget collected thru Q2 2020 and projected for years end 2020 and 2021

It is important to acknowledge that all but a small number of Owners are respectful and in compliance with City and Zoning Code. There are aspects of the LCPA and ZTA that are more restrictive than needed or fair to compliant residents to meet objectives. For instance, the requirement for a host to live on property. This requirement is made in an attempt to ban rentals as most people will not travel to the coast to rent with a stranger in the same space. The LCPA and ZTA position is that properties with two or more units can have the Owner live in one of those units. That requirement drastically reduces the home stock for STR which is its' objective however this dramatically reduces the living spaces available for visitors to experience the area. As the objectives for an onsite host is to enhance and facilitate prompt corrective action, the Owner should have the right to delegate authority to a neighbor within the stated neighbor notification area, or within the immediate area on-call to self-monitor and control the property. This would meet the objective and not deprive the owner of property rights.

The Recommended Action should not be adopted as it injects a change of use with consequences that are contradictory to City and Coastal objectives by reducing coastal access and eliminating a cost effective option to improve coastal access.

The Planning Commission should recommend the City conduct further due diligence to facilitate prompt correction of the negative behavior and work within the confines of the existing regulation. There is too much hype and emotion in both this proposed regulation and much of the feedback.

The Commission Agenda Report indicates research that 446 STRs in or near Malibu exist. Is the 446 inflated to make a more dramatic point? This should simply state the number in Malibu. At 446 listings this translates to 9% of the Malibu residential property count which is rather insignificant in count but large in regard to coastal access let alone affordable coastal access. As documented complaints through the hotline and sheriff are a very small part of the STRs (to be confirmed by requested statistics) there appears to be proposed regulation as a result of less than 1% of Malibu properties. If the data shows a larger problem in a particular neighborhood of West Malibu then the actions should reflect that and not Malibu as a whole.

The direction to adopt the Santa Monica ordinance is flawed as the intent of the Local Government differs in its' objective. Santa Monica adopted the ordinance to fix their problem which was the loss of lower cost home stock as a result of planned low cost living units being switched STRs. It did not impact access to the community as the home stock in question was developed new. The Owners switch to STRs was not done in good faith as the lower cost housing concept was used to gain new development approvals. In Malibu, both these issues are reversed in that STRs enable greater access to the beach community and coastline and in a cost effective manner which contributes to another City initiative.

I have been fortunate to spend a lot of great time in Malibu but I will recognize I have only been an Owner for 11 months. In my time looking for homes and time spent conducting diligence and spending time with locals. The Malibu area is gorgeous but not immune from human behavior. For various reasons, mostly I perceive as high cost and lack of respect for some regulation, we have a problem with a mixture of behavioral, accountability and in some cases negative character. These types of matters are best handled by individuals in the neighborhood (supported by us all) without government intervention. Honestly, government action against people with high financial means leads to game playing and not the responsive, reasonable resolution desired. Moving forward on this will not make things better and will only serve to penalize the less privileged Owners who are already respectful compliant and the general public as they will lose overnight access to the coastal community. STRs are a viable and vital method to enabling those who live far away from the coastline to visit and enjoy the recreational opportunities available at the beach and ocean.

Please see the attachment that identifies applicable sections and references of/to the General Plan, LCP, LUP, LIP, SMMNRA, OS, PRC, AND CCA which supports the above points.

I have several comments on the draft ordinance but instead of redlining the document I offer the following:

A. What is a well-intended action to create an enforcement mechanism to address bad actors has grown into an exercise of "what-if" scenarios and an emotional draw toward home-sharing and ultimately a ban on rentals. I am supportive of correcting the behavior of bad actors but am not in favor of a more restrictive ordinance that penalizes those that are acting well, reduces the rights of property owners and is inconsistent with the Malibu and Coastal Plans.
B. A layer of regulation for permitting STRs across Malibu is not justified and will not yield the outcome perceived. It is based upon a small level of occurrence, is focused in particular neighborhoods and will not improve the typical aspects justified for LA County Code Permits (Malibu Code follows LA County Code) such as property values, building safety, ensuring compliance with existing City and Zoning regulations, etc. If justified, a more focused permitting system should be put in place for particular neighborhoods where the complaints have actually been recorded.
C. Requiring a host to live onsite is not reasonable. It would require true home-sharing or would only allow STRs for multi-unit residences. This is effectively a ban and would deprive the owner of their right to rent the property in a respectful manner while respecting community concerns and current City Code and Zoning regulations. Having the Owner or his designee responsible, accountable, and accessible would be more reasonable and attainable.
D. It would be prudent to have input from ZORACES for reasons noted above before proceeding to a Special Meeting of the Planning Commission. This demonstrates an unnecessary rush for review.
E. It was clear from the last Planning Committee meeting that there was concern that if Malibu City approved and the Planning Committee rejected that the Malibu City action would stay in place. This is clearly what drove the setting of a Special Meeting and inappropriately reducing time for public review. It also is recognition of flaws in the LCPA and ZTA.
F. The new permit system and new regulations are to address nuisance issues and impacts on neighborhoods. It has not been made clear how many issues and what neighborhoods these issues are in. Such information should be disclosed for public knowledge before taking a motion to increase regulations. Although the occurrences are never acceptable, the hype and discussion seems to be much greater than the recorded incidents. The statistics are highly likely to show that documented complaints (not verbals or general emails but hotline/sheriff documented items) are low in relation to all of Malibu (not just STRs). STRs are less than 9% of the Malibu available units and the complaints are a very minor part of the STRs inferring the potential nuisance and impacts are less than 0.5% and not warranting more restrictive action in this manner.
G. Under Eligible Permit Applicants the City position is appropriate. Santa Monica allowing renters to do so is improper and goes against core values as it empowers and enables illegal subletting.
H. "Following the lead" of the Santa Monica Ordinance would mean there is a need to protect units for living and to preserve lower cost living spaces as this was the driver in Santa Monica. Intent matters. The driver here is to move toward a ban of STRs which will eliminate lower cost living spaces and reduce access to the community and the coast.
I. This document is vague in regard to approvals. As written in multiple areas, permits could be unreasonably withheld even with all other aspects complied with which is unfair. This infers that following all the criteria could still result in not obtaining a permit which will discourage people from applying.
J. More strict permit requirements for non-primary and primary residents is unfair and discriminatory. Primary and non-primary should not be treated differently. The bad actors, it is apparent they are non-primary residents or Corporations, should simply be dealt with instead of penalizing good owners/residents.
K. Requiring all offsite on-street parking via special event permit is unreasonable and will discourage people from applying. The number of house occupants and special events are already defined. Adding additional and conflicting requirements will discourage people from applying and lead to further lack of enforcement.
L. The section on enforcement, violations and penalties adds administrative action. There are actions under current code that are not enforced so it is not a deterrent to add more. My perception is that this was added to push people to apply but the "flavor" of the document will not change the behavior of the current offenders and unfairly penalizes the respectful citizens that are compliant today.
M. Requiring a person to be physically onsite from 8PM to 6AM is not realistic and over reaching as such a regulation impedes ones right to come and go. Having the Owner or designee available and responsible for their actions is reasonable.
N. The outline for the MSTR is proper in this regard as it allows the "neighborhood" (other units) to self-monitor and control. This same fundamental concept should apply to all STRs.
O. Under key requirements (pg5 of 11) delete the last sentence in the 3rd bullet for reasons noted in this commentary.
P. STR General Requirements
Q. Item 10 – must be a justified reason in line with MMC rationale
R. Item 12 – repeats MMC and should be removed from here. As an environmental issue this is required under MMC and should not only be enforced under an STR.

S. Item 13 – placing more strict requirements on STRs than done with similar business in the City is unnecessary, biased and not appropriate. It is consistent with a campaign to ban STRs instead of fair application of City Code.

T. Grounds for Denial and Revocation of Permit – These are repetitive with current MMC and additional regulation as presented is not necessary and will only have an impact on law-abiding and decent members of the community by paying more fees and getting nothing in return. It will not change the behavior of current offenders and therefore is unfair and must not be implemented. Such action will not encourage participation and achievement of improved community behavior.

U. Stating no STRs may be conducted during an appeal will not be enforceable as the final decision in commercial cases does not occur until after a judgment is entered and an appeal of that judgment is taken. This is especially the case when the Local Ruling is directly contradictory to the Coastal Act and the writings of the CCC. Malibu City is likely to held accountable for lost revenue if done.

V. Proposed STR Fees must be disclosed here as without doing so they can be set at unreasonable levels in an attempt to ban STRs at a later date.

W. Administration and Code Enforcement – Environmental Review

X. Public Resources Code Section 21080.9 is pursuant to Division 20 (commencing with Section 30000) and is applicable here. The intended acts in regard to permitting STRs in this fashion impacts the quality of the coastal zone, the utilization of the coastal zone and the rights of private property owners. As a result, it does have the potential to cause significant effect on the environment. Therefore CEQA does apply and the exemption does not apply.

30001.5.

The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:
(a) Protect, maintain, and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.
(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.
(c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

Aside from the summary commentary there has also not been adequate time to review the entirety of the document redlines. Especially with Special Meetings like this being called it is perceived there is a sudden rush to push this through as it's election time.

We have a character, behavioral, and accountability problem. Additional and more restrictive regulation will not fix it. In fact, I would forecast that this new regulation will seed more non-compliance, reduce City revenues, and not move the needle on enforcement in regard to a very small part of the community conducting themselves in a compliant manner. It is not in the best interest of the community at this time. We need action that will result in improved behavior, increased accountability, optimized revenue for the city and its residents to prosper, and satisfying our commitment for access to the coastal area.

I hope and trust this has come across in a positive and respectful manner and that you will give deep consideration to returning this to the City for different action.

I know it tests one's patience when people object and offer no ideas for solution. With the right approach we can satisfy the objectives of Malibu City, do well for its' community and satisfy the Coastal Act. STRs are a unique, legal solution as existing under Code today. However, this Recommended Action is based in the following aspects that are not proper or acceptable:

A. Regulation based more in perceived impacts than data indicative of a city-wide problem
B. The Recommended Action would deprive affected property owners of their property right to rent on a short-term basis.
C. Permitting (License requirement) impairs the right to rent which is an integral right of private property ownership.
D. Permitting (License requirement) improperly treats short-term rentals as an unlawful activity and requires a privilege of license to rent which is contrary to the principles of private property. STRs are legal.
E. Carte Blanche mandatory entry requirements for code enforcement personnel is not proper. Privacy of owners is a fundamental right.
F. Whether a home is occupied by an owner or renter, for long term or short term use, the use is of a home for living purposes. A zoning ordinance that would attempt to regulate homes differently based solely on the occupants' interest in the property (owner/renter), or the duration of the occupancy (long/short term) would be a violation of the fundamental principle that zoning deals with land use, not the user of the land and therefore be a breach in itself.

G. Short term and long term rentals are both residential use.
H. The requirement for the owner/delegate to respond in-person to complaints is troublesome as under some circumstances completely out of owner/delegate control (such as people arriving at the wrong address or on the property illegally, etc.) it may be more appropriate for code enforcement matters to be handled by a trained authority or code enforcement official.

I support developing reasonable and balanced regulation that is geared to address the specific issues in our community to allow for vacation rentals, target and resolve current issues and problems, and balance various viewpoints and interests. I know this is possible. The focus as noted in the Commission Agenda Report is:

- Monitor Activity (good Owners, compliant direction and expectations)
- Prevent nuisance issues from arising (impacts on neighborhoods)
- Facilitate prompt correction of any problems that develop (Promote and reward action)

The following outline would be a more productive, efficient and sustainable method of achieving performance consistent with Malibu City General Plan, City Code, Local Coastal Program, Zoning Code, and the California Coastal Commission. It would also not deprive owners of their property rights, and create a healthy balance of benefits for all including positive and reliable city income. It would achieve:

- Publish the key performance items (1-9) above
- Community know and be able to act in regard to specific addresses/areas
- Facilitate compliance with current Codes
- Optimizing access to and along the coast (LCP and CCC)
- Maximize public recreational opportunities in the coastal zone (LIP)
- Be a source of reliable city income as a result of the privilege of occupancy (MMC)
- Create more positive impacts and appreciation for the area (General Plan and MMC)

Thank you for your time and consideration of the above,
Dean Wenner

Kathleen Stecko

Subject: Correspondence re: Planning Commission Special Meeting Item 1.A. - LCPA No. 19-003 & ZTA No. 19-005

Received
7/29/20
Planning Dept.

From: Justin Block <justin@blocklaw.net>
Sent: Wednesday, July 29, 2020 1:36 PM
To: Planning Commission <planningcommission@malibucity.org>
Cc: Kelsey Pettijohn <kpettijohn@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>; Alan Block <alan@blocklaw.net>
Subject: Correspondence re: Planning Commission Special Meeting Item 1.A. - LCPA No. 19-003 & ZTA No. 19-005

Kelsey & Patricia: Please find a correspondence below to be included in the Administrative Record regarding the Commission's consideration of the above referenced matter this evening. Can you also kindly confirm receipt. Thank you.

_____

Chair Jennings and Honorable Members of the Planning Commission:

Please be advised that this office represents RNR Properties LLC and Calbest Investments, the owner of the property located at 22816 Pacific Coast Highway which contains a six (6) unit multi-family building where three (3) of the units have been registered with the City and historically been rented on a short-term basis.

Short-term vacation rentals ("STVR") are prevalent in California beach communities, including Malibu and predate the City's incorporation in 1991. The Coastal Commission was created pursuant to the California Coastal Act of 1976 ("Coastal Act"). Its purpose is to promote and preserve public access to coastal resources and to balance the interests of private property owners and the public interest in coastal resources. The Coastal Act requires that any person who seeks to undertake "development" in the coastal zone to seek a Coastal Development Permit ("CDP"). "Development is broadly defined in the Coastal Act to include "the change in density or intensity of use of land". As such, any regulation on STVR must be processed as a Local Coastal Program ("LCP") amendment. STVRs in the coastal zone represent a visitor-serving use and support coastal recreational opportunities. Pertinent Coastal Act Sections relating to STVRs are the following:

> Section 30213 states: *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*
>
> Section 30222 states: *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance pubic opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

The City's LCP was certified in September 2002 to implement the provisions and policies of the Coastal Act at the local level. Chapter 1, Section D, of the City's Land Use Plan sets forth the General Goals and Objectives of the City's LCP such as the following:

> Subsection (c) states "[m]aximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners."

STVR are overnight accommodations in private residential zoned properties, rented on short-term basis which are often more affordable and offer greater flexibility than traditional visitor accommodations like hotels, motels or bed-and-breakfasts. They frequently provide amenities that traditional accommodations lack, including kitchens, family rooms and outdoor space. More importantly, STVRs offer travelers of all types additional opportunities to visit and enjoy the City of Malibu. Malibu, unlike the City of Santa Monica which the Zone Text Amendment ("ZTA") was based, does not have many traditional visitor accommodation options, as rooms are sparse, so any regulation limiting legally, pre-existing visitor-serving

accommodations is in direct contrast with Coastal Act Section 30213 which states such lower cost visitor and recreational facilities shall be “protected” and “encouraged”.

Our client respectfully requests that the ZTA be revised to allow property owners the ability to maintain as STVR the number of units and/or residences previously registered with the City.

It is respectfully requested that this correspondence be made part of the Administrative Record regarding the Commission’s consideration of this matter.

Thank you.

Respectfully submitted,

Justin Block

Justin Michael Block, Esq.
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Kathleen Stecko

Subject: Presentation for Malibu Planning Commission
Attachments: SD STRO Commission staff comment letter 7-13-18 (1).pdf

Received
7/27/20
Planning Dept.

On Mon, Jul 27, 2020 at 2:38 PM Jeff SeaBreeze wrote:

Kathleen,

Please include the following information to the planning commission on this agenda item...

Total Permitted STR's in Malibu are 397
Entire Home Rentals = 354 (89.2%) - Would be eliminated under the current plan you are considering.
Room Rentals (Home Sharing) = 10.3%
Shared Rooms (Home Sharing) = .5%

If the City were to require that Short Term Rentals (STR's) be only a Home Share Rental, it would eliminate 89.2% of the existing short term rentals in Malibu. This would signify a significant change to the LCP. The California Coastal Commission has already made their viewpoints on this issue well known. I would request that the attached letter from the California Coastal Commission to the City of San Diego - City Council on July 13th 2018 be submitted as part of the record on this item.

Since the Coastal Commission's letter to San Diego lays out a very good plan that allows for the fair treatment and common sense regulations for STR's (both shared and whole home rentals) and would have a high likelihood of passing at the Coastal Commission level based on their own wording in this letter, and the current plan being submitted to the commission has a very high likelihood of failing at the Coastal Commission level (wasting another couple years of time and effort), that the Planning Commission use the San Diego ordinance as a guide in recommending actions to the City Council.

Date Received 7/27/20 Time 3:00 PM
Planning Commission meeting of 7/29/20
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Total No. of Pages 18

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

Please understand that the only reason Santa Monica was allowed to ban whole home stay short term rentals is because they did not have them as part of their LCP before. Malibu is not in that same situation, and should therefore stop trying to implement a "Santa Monica" type ordinance. It will not pass with the Coastal Commission, nor will it be fair to the legally permitted STR's that have followed the rules and are operating legally and with active permits issued from the City of Malibu.

Thank you for passing this along and I hope the Planning Commission will reject the staff recommendations and instead recommend something that will not waste the Planning Commission's time, the City Council's time and the Coastal Commission's time.

Sincerely,

SEABREEZE
Vacation Rentals

JEFF**BOSSON**
NEWBUSINESS**DEVELOPMENT**
c: **949-216-8566**
v: **CLICK HERE TO VIEW SEABREEZE VIDEO**
a: 2523 W Coast Hwy, Newport Beach, CA 92663
s: www.seabreezevacationrentals.com

STATE OF CALIFORNIA -- THE NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *Governor*

CALIFORNIA COASTAL COMMISSION
SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370

July 13, 2018

City of San Diego
City Council
202 C Street
San Diego, CA 92101

Re: City Council Docket for July 16, 2018: Short Term Vacation Rentals and Home Sharing

Dear Councilmembers:

Over the last several years, and as the City of San Diego has already experienced, the growth and impacts of the vacation rental market has become an issue in many coastal communities. In general, under the Coastal Act, they represent a high priority visitor-serving use that should be promoted as a means to provide overnight accommodations and support increased coastal access opportunities. In addition, our staff believes that they also serve as a more affordable option of overnight accommodations than traditional hotels, motels or timeshare units, especially for families.

In the last year, the Coastal Commission has considered and acted on a number of proposed ordinances from jurisdictions up and down the state. The Commission's actions have supported some requests, reflecting different iterations or geographic applications, but it has generally not supported outright bans of short-term vacation rentals. In addition, while promoting affordable overnight accommodation options, the Commission has expressed concerns about the loss of community character and potential impacts to affordable housing as a result of the proliferation of short term vacation rentals.

For context, the relevant Coastal Act mandates are the following sections:

> **Section 30213**
> ***Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided.*** Developments providing public recreational opportunities are preferred. (emphasis added)
>
> **Section 30222**
> The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation ***shall have priority over private residential, general industrial, or general commercial development,*** but not over agriculture or coastal-dependent industry. (emphasis added)

As this office has stated before, this agency has generally interpreted local zoning ordinances in a broad fashion and found that short term rentals or vacation rentals are a form of residential use, permitted by right, in any residentially zoned area unless such uses are specifically prohibited or otherwise restricted. Nonetheless, as noted above, this agency also understands and appreciates that these uses may raise a number of neighborhood character and operational issues, such as site management, number of occupants, special events,

parking, litter and noise limits. Therefore, the Coastal Commission has endorsed certain regulations to require on-site management, enforcement protocols, occupancy limits, required parking and other use provisions.

Based on a review of the updated draft ordinance language and related City report and materials, it is this office's understanding that the City is considering the adoption of ordinance amendments that would create a new separately regulated use called "short term residential occupancy" (STRO), require annual licenses for "whole home" STROs (but not "home share" STROs unless the structure has 5 or more bedrooms), establish limits on the number of operating licenses a natural person may be issued (though no license limit is proposed in Mission Beach), require a Neighborhood Use Permit for any STRO with five or more bedrooms, and create a registration process in order to manage all aspects of STRO licensing and enforcement. In the case of STROs within the coastal zone and the Downtown Community Planning area, the proposed ordinance amendment would further require a minimum stay of no fewer than three (3) nights for whole home STROs. Alternatively, for a home share STRO where the owner occupant would remain in residence, no minimum night stay is proposed. In addition, the City's ordinance would not allow use of accessory dwelling units or junior accessory dwelling units as short term rentals. The proposed licensing and registration will incorporate the "good neighbor" provisions, the payment of an affordable housing impact fee, and stronger enforcement measures. Commission staff believes the affordable housing impact fee and accessory dwelling unit provisions are important elements to help address concerns about potential housing issues.

The standard of review for any proposed ordinance amendment is the City's certified land use plans; the City's analysis should review any proposed changes for conformity with those certified community plans. Based on the Coastal Act mandates, the certified land use plans, and an evaluation of the proposed regulatory revisions, Commission staff views the City's proposed amendment as a supportable effort to preserve a means of affordable overnight accommodation while balancing it with the recognized need to respect the character of coastal communities. Given that many coastal visitors may be looking to get away for only a week or an extended weekend, the establishment of a three-night minimum would not unduly impede this type of travel and will still permit the substantial majority of visitor opportunities. In addition, the attractiveness of vacation rentals for many families is the kitchen facilities and expanded living space facilitating an extended stay; and again, a three-night minimum stay would be not be unduly limiting the availability of those rentals. The decision to not place limits on the number of STROs in the Mission Beach community contributes to staff's general support for this plan given its character as the most densely developed community in San Diego and the decades-long popularity – recognized in the certified Mission Beach Precise Plan – of STROs in the peninsular community given its location between the ocean and Mission Bay Park.

In summary, the Commission staff acknowledges the need to provide for some regulatory controls and management provisions for short term rentals, and the City's draft ordinance appears to be a prudent middle ground in providing a popular overnight accommodation alternative while protecting the neighborhood character of San Diego's coastal area. On a technical note, the regulations under consideration are being proposed in Chapter 5 of the City's Municipal Code which is not presently part of the City's certified Local Coastal Program. Thus, the City's action and resolution must make it clear that the relevant chapter

and article is being submitted for Coastal Commission review and adoption. Relatedly, in terms of any future submittal, Commission staff would continue to strongly recommend that the amendment request include an updated inventory and mapping of existing visitor-serving accommodations by type, capacity, ownership, and price range in order to gain an accurate assessment of what is or is not available for tourists. Utilization studies would also be helpful to gauge how various forms of vacation rentals operate and demand projections for overnight visitor accommodations are also needed to evaluate whether the current supply is adequate to meet future needs. We appreciate the opportunity to provide comment and look forward to working with the City to develop a vacation rental ordinance that promotes and expands affordable coastal visitor opportunities while also addressing neighborhood concerns. These comments are being provided by staff and are not binding on the Commission itself. If you have any questions, please don't hesitate to contact Alexander Llerandi, Coastal Program Analyst, or me at the above office.

Sincerely,

Deborah N. Lee
District Manager
San Diego Coast District

Short Term Vacation Rentals
Malibu, California

Malibu, California: STVRs and Tourism

- **AirBnB Hosts With Multiple Listings** **58.9%**
- **AirBnB Hosts With Single Listing** **41.1%**
- **Population, 2019** **12,846**
- **Owner-occupied housing unit rate, 2014-2018** **73.2%**
- **Median value owner-occupied units, 2014-2018:** **$2M+**
- **Median selected monthly owner costs**
  - **-with mortgage, 2014-2018** **$4,000+**

- The values of homes are high and the owner costs are high as well.
- There is an overwhelming demand for vacation rentals from thriving tourism market.
- Many of the property owners do not occupy the properties as their primary residences, instead they maintain them as beach homes.
- There are several owners who have multiple listings on AirBnB.
- These are viewed as common problems associated with STVRs.

Simple Solution: Limit the number of permits per owner

Source: United States Census Bureau and http://insideairbnb.com/get-the-data.html

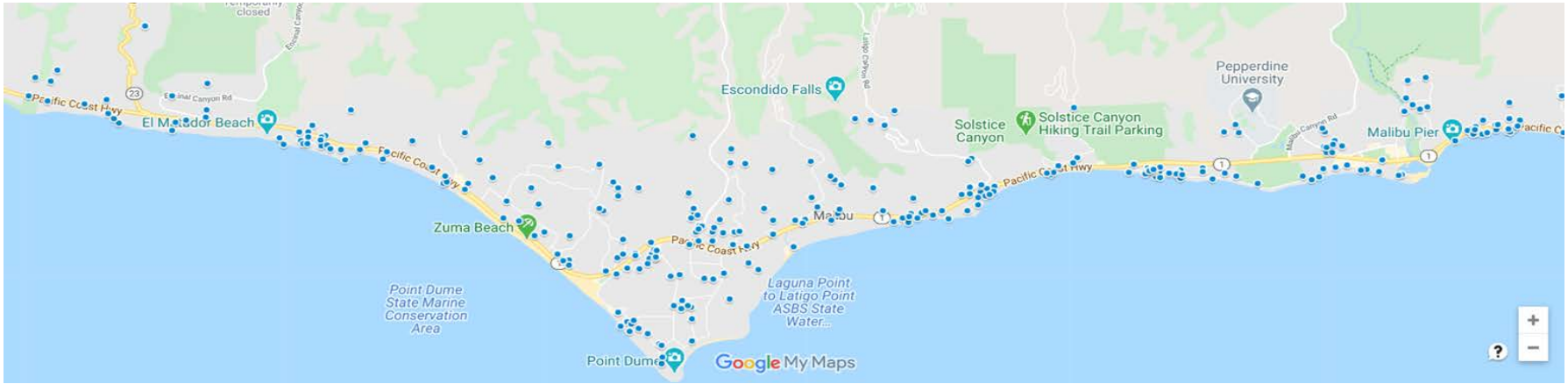
Malibu Housing Statistics

Source: California Department of Finance, E-5, 201

Housing Type	Number	Percentage
Single Detached	4,375	68%
Single Attached	532	8%
Two - Four	232	4%
Five Plus	761	12%
Mobile Homes	541	8%
Occupied	4,891	76%
Vacancy Rate	1545	24%
PPH (2019)	2.37	NA
Total	6,441	100%

- Malibu is home to 6,441 housing units for which the average price exceeds $2M.
- The majority (4,372) units are single detached homes. Which are better suited to mitigate Noise issues associated with STVR
- The lower occupancy rate (76%) reflects the fact that many homeowners in Malibu have secondary properties that are used as private beach homes. This is further reinforced by the low rental occupancy of homes that are listed on AirBnB.

AirBnB Data : Listings and Tourism



- **Malibu is also a thriving hub for tourism with a reported 13,000,000 tourists visiting Malibu, CA every year.**
- **Malibu has 397 STVRs. Shown Above**
- **397 is a small number considering the fact that Malibu has over 1,000 tourists/year for every resident.**
- **Many of the issues associated with STVRs may actually be due to the high volume of tourists**

Sources: The PCH Report, Malibu Magazine and http://insideairbnb.com/get-the-data.html

AirBnB Data: Listings

Room Type	Number of Units	Percentage
Entire Home/Apt	354	89.2%
Private Room	41	10.3%
Shared Room	2	0.5%
Total	397	100%

Most Short-Term rental properties listed on AirBnB are entire home or apartments. Limiting the rental of these would eliminate approximately 90% of the STVR market, a proposition that will surely be denied by the coastal commission.

Source: http://insideairbnb.com/get-the-data.html

AirBnB Data : Occupancy for Malibu

Activity	Value
Estimated Number of Nights Rented per Year	70
Estimated Occupancy Rate	19.3%

Here we see that Short- Term Vacation Rentals in Malibu are rarely occupied (<20% of the time) and that on average properties are rented about 70 nights of the 365 in each year.

Source: http://insideairbnb.com/get-the-data.html

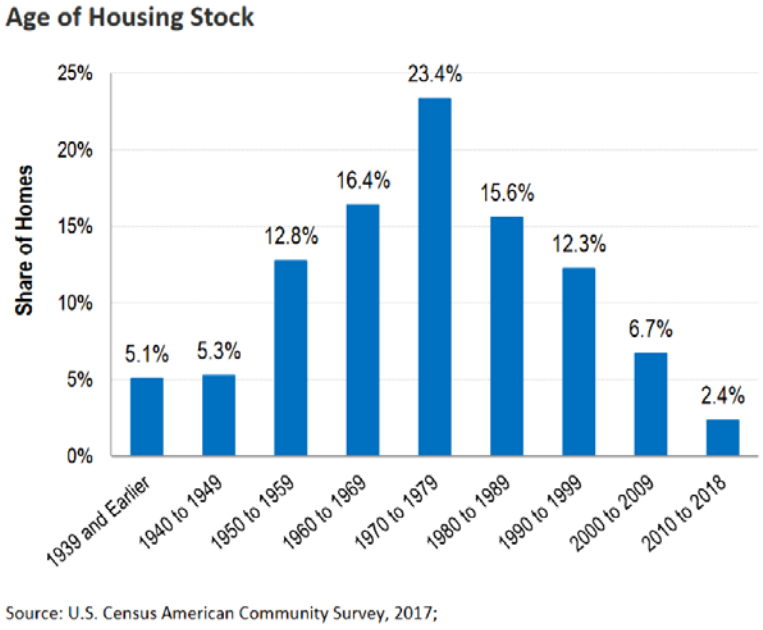
AirBnB Data: Availability

Availability	Number	Percentage
Units with High Availability > 95 days in a year	266	67%
Units with Low Availability <= 95 days in a year	131	33%
Total Units Available	397	100%

The high availability coupled with low occupancy numbers, point to the fact that although many these rentals are available, they tend not to get rented as often as other markets. This is attributable to the high cost nature of the rentals, and that the owners manage them more as private beach homes than for profit investments.

Source: http://insideairbnb.com/get-the-data.html

Are STRV Homes Increasing Real Estate Investment?



Source: U.S. Census American Community Survey, 2017;

If this were the case we would expect new housing starts to have increased since the Mid 2000s. However, here we can see that houses built between 2000-2018 comprise less than ten percent of the total housing stock.

Analysis: The Investment Opportunity

Buying a house to manage as a STVR in Malibu can be costly as an investment proposition, even if it is rented for the average number of nights and yearly expenses are estimated on the low end.

- **Median Price of STRV listed on AirBnB: $650/night**
- **Estimated Number of Nights Rented per Year: 70 nights/year**
- **Rental Revenue to Owner = $45,500/year**

- **Average monthly owner costs (low) = $4,000/month**
- **Average yearly owner costs (low) = $48,000/year**

Total Yearly Profit

=

Rental Revenue to Owner - Average Owner Costs

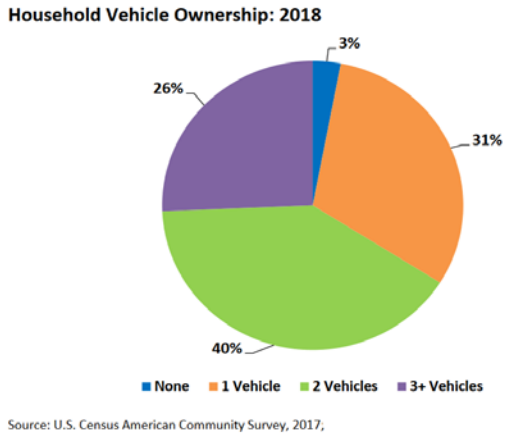
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-$2,500/year

NOT A GREAT INVESTMENT OPPORTUNITY

Sources: US Census Bureau and http://insideairbnb.com/get-the-data.html

Local Traffic: Better or Worse?



The majority of Malibu households, with 2.37 people per household have less than two cars. In general, vacationers tend to bring less than two cars with them. This fact, coupled with low housing occupancy in the area may, on average, actually alleviate congestion in traffic dynamics.

Sources: US Census American Community Survey and https://blog.accessdevelopment.com/tourism-and-travel-statistics-the-ultimate-collection#activities

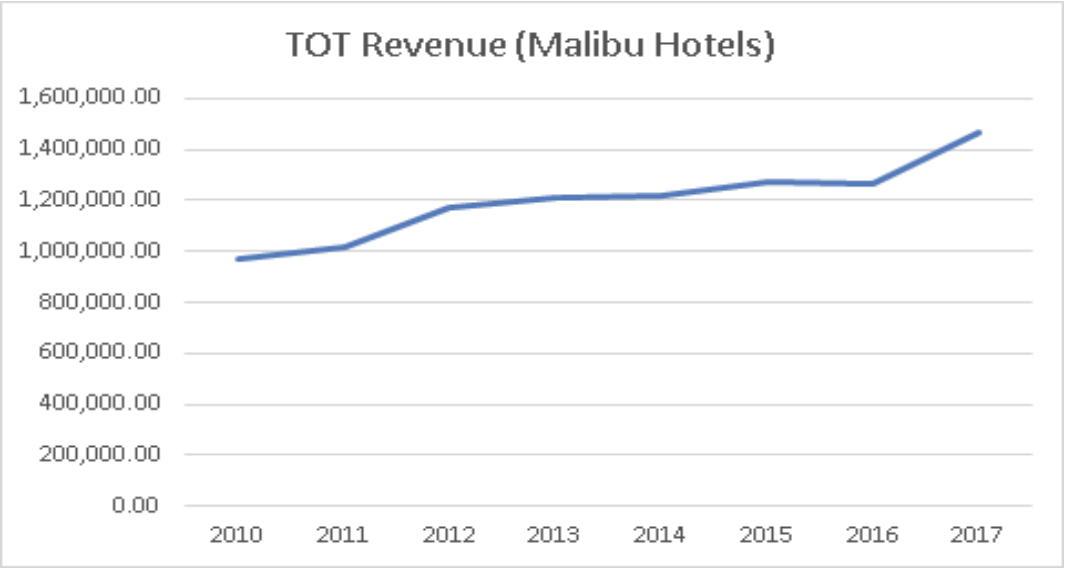
Crime Statistics: Is Malibu Less Safe?

Type of Crime	2016	2017	2018
Violent	38	38	37
Property	402	366	380

- **The most recent data from FBI's Uniform Crime Reporting Statistics show that both violent crimes and property crimes in Malibu actually decreased over the years of 2016-2018.**

Source: FBI Uniform Crime Reporting Statistics

Transient Occupancy Tax Revenue



TOT Revenue has been on a steady increase over the last ten years. This is likely due to thriving tourism and exemplifies how the demand for hotels and STVRs is ever-present in Malibu.

Source: City of Malibu Public Records Request

Summary: STVRs and Malibu

- **Issues thought to be caused by STVRs are more likely caused by the high volume of tourists, the majority of which seem to not participate in STVRs.**
- **There is no evidence in the most recent selected data (2016-2018) to support the idea that the introduction of STVR properties increased crime in Malibu.**
- **Traffic congestion may be alleviated by having unoccupied STVRs.**
- **TOT Revenue has been increasing, thus reflecting the demand created by tourism.**
- **Many of the properties in Malibu are secondary beach homes.**
- **These homes tend to be highly available and rarely occupied by owners or renters on AirBnB.**
- **The high cost of housing, low median AirBnB listing prices, and low occupancy detract from profit opportunities in the market. This makes them less attractive to investors. This trend is further supported by data regarding the age of the housing stock.**
- **Primary residents only ordinance would eliminate 89.2% of STVRs in Malibu and would be unlikely to be supported by Coastal Commission**
- **Although the investment proposition is poor there are still many owners with multiple listings. If the concern is the proliferation of property investment in homes to be used as STVRs, the solution may be to limit STVR permits per person.**

Received
7/29/20
Planning Dept.

July 29, 2020

Planning Commission
City of Malibu
c/o Kathleen Stecko, Administrative Assistant
23825 Stuart Ranch Road
Malibu, CA 90265
Email: kstecko@malibucity.org

Re: July 29, 2020 Special Meeting–Agenda Item 1A

Dear Chair Jennings and Members of Commission:

On behalf of Airbnb, thank you for the opportunity to provide comments on the proposed Local Coastal Program Amendment and Zoning Text Amendment ("LCPA/ZTA") regulating the rental of residential units for 30 days or less in the City of Malibu. Founded in 2008, Airbnb has worked with hundreds of cities around the world over the last 12 years as those communities have developed and implemented procedures, policies, and regulations governing vacation and other short-term rentals, and we stand ready to continue our work with Malibu on these important issues.

For the reasons described in more detail in this letter, we respectfully urge the Planning Commission to decline to take action on the proposed LCPA/ZTA on July 29th, and instead recommend that City staff continue to work with Airbnb, its hosts, and other stakeholders to craft a balanced ordinance that protects neighborhoods, supports and encourages continued visitor access to the Malibu coast consistent with the Coastal Act, and provides sustained revenue to the City and other benefits to the local tourism economy.

Background

Airbnb is an active participant in the Malibu community. Our hosts have offered their homes to visitors of Malibu for over a decade, earning more than $18 million dollars in supplemental income, and welcoming over 40,000 guests to the City in 2019 alone. Given the less than 125 hotel and motel rooms in the City, Airbnb hosts have supported the democratization of tourism in Malibu, giving tens of thousands of everyday people the chance to experience the unique beauty of the Malibu coast. Since we partnered with Malibu in 2015 to collect and transmit transient occupancy tax ("TOT") on behalf of our hosts and their guests,

Date Received 7/29/20 Time 10:30 AM
Planning Commission meeting of 7/29/20
Agenda Item No. 1A
Total No. of Pages 6

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

short-term rentals on the Airbnb platform have generated over $7,000,000 in revenue, with $2,000,000 in 2019 alone.

Over the last several years, Airbnb has appreciated the opportunity to dialogue with City staff as Malibu has considered the regulation of short-term rentals in the City. As we have shared in the past, Airbnb supports a balanced approach to the regulation of short-term rentals, and we appreciate and support a number of the principles contained within the proposed LCPA/ZTA. For example, we support the requirement for hosts to take responsibility for and actively prevent nuisance activities; maintain a 24-hour contact; ensure basic health and safety features; provide guests with the City's Short-Term Rental Code of Conduct; comply with applicable building, and fire and other safety codes (including noise limitations).

We are, however, extremely concerned about the proposed LCPA/ZTA's requirement that a single-family home offered as a short-term rental be the owner's primary residence and that a host live onsite during the rental. Of the 660 active listings in Malibu on the Airbnb platform, 90% of them are whole home listings, of which 86% of these whole home listings rent their homes less than 180 days per year - a likely indication that they are a secondary residence for the owner and unlikely to ever be a part of the long-term housing stock. Banning unhosted secondary whole home rentals, in other words, would result in a de-facto ban on short term rental accommodations in Malibu that cuts off an important economic recovery lifeline for the city, homeowners, and local small businesses.

Airbnb Tools to Address Quality of Life Concerns

As an initial matter, we have worked with hundreds of cities around the world to address concerns about impacts to quality of life and housing, and are committed to working with you to bring responsible home sharing and its benefits to Malibu through balanced regulations. We have developed a variety of tools to address concerns about nuisance activity, including our online Neighbor Tool (www.airbnb.com/neighbors) where residents can submit inquiries anonymously, and a 24-hour hotline (855) 635-7754 to report concerns about any short term rental activity on our platform. We have also built tools into our platform to support local enforcement and stand ready to work with the local community and the City's leadership to address these concerns.

The Proposed LCPA/ZTA Conflicts with the City's Local Coastal Program and California Coastal Act Policies

We appreciate the City preparing a LCPA/ZTA for Coastal Commission review. The City is well aware that vacation rental regulation in the coastal zone must occur within the context of its local coastal program (LCP) and/or be authorized pursuant to a coastal development permit (CDP). Short-term/vacation rentals represent a change in the intensity of use and of access to the shoreline, and thus constitutes development to which the Coastal Act and LCPs must apply.

It is well known that private short-term rental accommodations democratize travel and bring visitors (particularly families) to places where they might not otherwise be able to visit. In

a December 2016 letter to Coastal Planning/Community Development Directors, then-California Coastal Commission Chair Steve Kinsey noted the importance of vacation rentals in the California coastal zone, writing: "We believe that vacation rentals provide an important source of visitor accommodations in the coastal zone, especially for larger families and groups and for people of a wide range of economic backgrounds."[1]

This is particularly true in Malibu. Despite being a significant visitor-serving destination (receiving millions of visitors a year), there are extremely limited hotel/motel options in the City. As summarized by City staff:

> It should also be noted that the lodging options for visitors to Malibu are limited. Lodging options for visitors to Malibu are limited to six hotels and motels, plus the Malibu Beach RV Park. Demand for lodging in the City is likely to continue to outstrip the ability of hotels/motels to supply that lodging. As a result, demand for short term rental options in the City is likely to continue to grow, especially because many families prefer to rent a home rather than rooms in a hotel.[2]

Given the lack of "traditional" overnight lodging, short-term rentals have historically provided and continue to provide critical visitor-serving overnight accommodations in Malibu, and Airbnb's host community is proud to open their homes – and Malibu – to the world.

The proposed LCPA/ZTA requirement for an onsite host to be present during a rental will result in the loss of a significant number of these important accommodations, since the vast majority of short-term rental offerings in Malibu are for the entire home. As previously reported by City staff:

> Data from Host indicates the majority of Malibu's short-term rentals are large, single family homes. Approximately 94 percent of the City's short-term rentals are for entire homes[FN] and approximately 74 percent are for single family residences.
>
> [FN] This includes instances when homeowners rent out accessory dwelling units, duplex units, etc. where the unit is listed as an "entire home" rental while the homeowner is next door for the duration of the stay.[3]

Given that the proposed LCPA/ZTA requires a host to be present on the property for the duration of the rental (effectively removing the entire home rental option[4]), it will likely eliminate the majority of short-term rentals currently offered in single-family homes in the City.

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[1] Letter from Steve Kinsey, Chair, California Coastal Commission to Coastal Planning/Community Development Directors (December 6, 2016).

[2] Staff Report for the November 20, 2017 Planning Commission Meeting Regarding Short-Term Rentals.

[3] Staff Report for the September 26, 2018 City Council Meeting Regarding Short-Term Rentals.

[4] Except in the limited cases of the rental of accessory dwelling units, duplex units, etc.

Removal of these accommodations sits in square conflict with a number of the City's LCP policies, including:

- 2.34 – Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

- 2.36 – Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

  Instead of "protecting to the maximum feasible extent" the existing overnight accommodations relied on by visitors to Malibu for decades and "encouraging" new accommodations, the proposed LCPA/ZTA ***will potentially eliminate hundreds of these important visitor-serving uses.*** Again, this is particularly problematic in Malibu, where there are fewer than 125 hotel and motel rooms to serve the millions of visitors the City receives each year.

The City's LCP also provides:

> A broad policy goal of the California's Coastal Management Program is to maximize the provision of coastal access and recreation consistent with the protection of public rights, private property rights, and coastal resources as required by the California Constitution and provided in Section 30210 of the Coastal Act. Several additional policies contained in the Coastal Act, which are herein incorporated into the Land Use Plan, work to meet this objective.[5]

The proposed LCPA/ZTA approach is inconsistent with the Coastal Act policy reproduced directly below and the California State Legislature's intent to "[m]aximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners":[6]

> The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential,

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[5] City of Malibu LCP, Land Use Plan, Chapter 2, § A.1.

[6] Pub. Resources Code § 30001.5.

> general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.[7]

As previously summarized by Coastal Commission staff, "the Coastal Act places a higher priority on the provision of visitor-serving uses, particularly overnight accommodations, over private residential uses because such visitor-serving uses offer a vehicle for the general public to access and recreate within the state's coastal zone."[8]

Instead of seeking to eliminate the majority of short-term rentals in Malibu with the proposed LCPA/ZTA, we encourage the City to seek a more balanced regulatory approach that will support visitor-serving overnight accommodations while providing appropriate neighborhood protections consistent with the Coastal Act and its laudable goal to maximize coastal access. We stand ready to work with the City on that balance.

The Proposed LCPA/ZTA Will Result in a Significant Revenue Decline for the City

In addition to severely restricting access to the Malibu coast in violation of the City's LCP and Coastal Act policies, the proposed requirements that a single-family home offered as a short-term rental be the owner's primary residence and that a host live onsite during the rental will also have significant impacts on the City's revenue. As we summarized above, Airbnb remitted over $2,000,000 dollars in TOT on behalf of our hosts and their guests in 2019 alone.

We understand in 2019 the City engaged Raftelis Financial Consultants to analyze the City's finances and develop a model to forecast the potential financial impacts from a ban on short-term rentals.

We reviewed the October 2019 presentation from Raftelis provided to the Malibu City Council Administrative and Finance Subcommittee on October 3, 2019. Raftelis concluded that a reduction of 50% of existing short-term rentals would lead to an approximate $13.7 million reduction in revenue to the City over the next 10 years. Raftelis estimated a complete ban would result in an approximate $27.5 million revenue reduction over that same period. Based on the Host Compliance data previously summarized by City staff[9], and our own understanding of the nature of host offerings on the Airbnb platform in Malibu, it is clear to us that the proposed LCPA/ZTA would prohibit nearly all short-term rental activity on the Airbnb platform and result in net revenue losses to the City within the Raftelis-identified range ($13.7 million – $27.5 million).

In addition, several weeks ago, the City Council voted to place a measure on the November 2020 ballot to increase the City's Transient Occupancy Tax from 12% to 15% - action undoubtedly designed to generate much-needed revenues to assist with ongoing recovery efforts in Malibu. In doing so, the Council referenced the fiscal analysis in a June 15, 2020 staff report

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[7] Pub. Resources Code § 30222.

[8] Letter from Susan Craig, Central Coast District Manager, California Coastal Commission, to Carl Holm, Director, Monterey County Resource Management Agency (June 23, 2016).

[9] *See* Staff Report for the September 26, 2018 City Council Meeting Regarding Short-Term Rentals.

on the matter predicting an increase of $775,000 in annual TOT from the tax increase. However, this analysis also explained that it did not account for a full or partial ban on STRs and additional restrictions to STR activity will almost certainly further reduce or outweigh the projected $775,000 annual projection. Notwithstanding the uncertainty created by the pandemic, we are concerned that it would be illogical to ban an activity that could generate much-needed revenue for the city in a time of economic crisis.

In a time where cities all over the county are seeing steep revenue declines, TOT revenues from short-term rentals offer an important opportunity to increase revenue and support local programs while providing accommodations for travelers to have new experiences in new locales. Guests of Airbnb hosts also generate sales tax when they support local business and generally breathe life into the local tourism economy. Malibu is no different, and the proposed LCPA/ZTA threatens to significantly reduce the economic benefits of short-term rentals in the City. We strongly encourage a more balanced regulatory approach.

Conclusion

While we recognize the City is striving to find an appropriate balance in the LCPA/ZTA, the proposed requirements that a single-family home offered as a short-term rental be the owner's primary residence and that a host live onsite during the rental is overly burdensome and inconsistent with the City's LCP and Coastal Act policies. It will also present significant economic challenges for our hosts, local Malibu businesses that thrive on travel tourism, and the City itself, which stands to lose eight figures in TOT revenue over the next 10 years under the proposal.

We encourage the Planning Commission to decline to take action on the proposed LCPA/ZTA on July 29th and instead recommend staff continue to work with Airbnb, its hosts, and other stakeholders to craft a reasonable regulation that supports and encourages continued visitor access to the Malibu coast while providing sustained benefits to the local economy.

Sincerely,



John Choi
Policy Manager, Airbnb

Kraig Hill
[redacted]

July 27, 2020

Received
7/28/20
Planning Dept.

BY EMAIL ONLY

Planning Commission
City of Malibu
23825 Stuart Ranch Road
Malibu, California 90265

Re Short Term Rentals – Additional Comments

Dear Commissioners,

I'd like to add a few more thoughts to my previous memo on STR's.

The more I think about it, and the more I re-read the opinions in the relevant court cases, the more it's clear that the best ordinance is the one that hews closest to the Santa Monica ordinance. It has been "battle-tested" in court. The more Malibu's might diverge, the more it risks being challenged on new or different grounds.

Next, the staff's assumption that the ordinance would need a CDP appears to be unwarranted. Consider this report from the Santa Monica Daily Press[1]:

> On February 19, 2019, in City of Santa Monica v. Diana Hayak, the Appellate Division of the Superior Court dismissed Defendant Hayak's appeal and affirmed eleven counts of short-term rental violations against Hayak for illegally advertising and operating a short-term vacation rental business in Santa Monica. The trial court decision in this case made clear that **the City's Home-Sharing Ordinance is a valid exercise of the City's police powers and not preempted by the California Coastal Act.** The trial court further held that the Home-Sharing Ordinance "**does not require a coastal development permit and the [Coastal] Commission's authority does not extend to approving or rejecting general laws adopted by cities."**

Having been affirmed at the appellate level, that case constitutes precedent applicable to Malibu if a lack of a CDP for the ordinance were to be challenged in court. More to the point, it would be reckless for anyone to bring the "lack of CDP" argument to court against the City in the first place.

That being the case, the need for the Interim ZTA is questionable at best. The City can and should simply pass the main ordinance and implement it immediately. With regard to how the Coastal Commission might react, you don't even need to invoke the principle that "it's better to ask for forgiveness than to ask for permission." Let the onus rest on the contestant who would have to persuade the Coastal Commission that what's good enough for Santa Monica is not good enough for

1 https://www.smdp.com/santa-monica-city-prosecutors-obtain-a-trio-of-wins-in-short-term-vacation-rental-enforcement-cases/173258

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

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Malibu. The court's language (above), that "the Home-Sharing Ordinance does not require a coastal development permit," is unequivocal.

Next, as regards penalties, the draft ordinance refers to provisions in MMC Chapter 1.10:

> 17.55.110 Enforcement, Violations and Penalties.
> 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 Section 17.55.020(A) by an owner shall be subject to a fine of $1000 per day or violation, or twice the short-term rental's advertised daily rental rate per day or violation, whichever is higher.

However, I don't see that the draft proposes to correspondingly amend §1.10.040 "Code violations subject to administrative penalty procedures" to include any violation(s) pertinent to STR's. Please make sure that the ordinance has a full set of teeth, not just a painted-on smile. **Require that Chapter 1.10 be amended as necessary.**

Finally, you might examine the potential for conflict of interest concerning the City's attorneys. I'm not suggesting there definitely are any, just that it's worth looking at, and securing any disclosures for the record (a disclosure can serve as an inoculation against a future attack). Note, for example, that Attorney Rusin authored an article in 2015 on how cities can deal with STR's, for the League of California Cities web-magazine, *Western City*. It's fairly objective, but might overall seem to favor STR's, notwithstanding that it does say one option is to ban them. You should look at it to see if it raises any concerns for you: https://www.westerncity.com/article/home-sharing-new-economy

Meanwhile, Attorney Hogin's private firm filed an amicus brief in the Ninth Circuit's decision, *HomeAway.com v. City of Santa Monica*.[2] I don't know the contents of her brief, but the fact of her involvement suggests the possibility that you might want to ask for her disclosures. If that alone is unnecessary, it could still be that the writings of Attorneys Rusin and Hogin may pull in opposing directions, *vis a vis* the City's current interests. The point is simply to check whether either of them holds cards they should lay on the table – now, while such cards may be of lesser consequence.

Finally, Attorney Rusin's article made reference to an appellate case, *Ewing v. City of Carmel-by-the-Sea*,[3] that offers some good guidance for your current deliberations:

> [T]he court found that the short-term rentals alone [even in the absence of neighbor complaints] sufficiently threatened the residential character of a neighborhood because "short-term tenants have little interest in public agencies or in the welfare of the citizenry."

That's enough to counter anyone who says, "Well, if no one complains, what's the harm." The harm is that every house that doesn't hold a permanent neighbor is a strike against community.

Best,
Kraig Hill

2 US Court of Appeals for the Ninth Circuit, Filed March 13, 2019.
3 Ca Ct App 1991 https://caselaw.findlaw.com/ca-court-of-appeal/1766940 html

Kraig Hill
[redacted]

July 26, 2020

BY EMAIL ONLY

Planning Commission
City of Malibu
23825 Stuart Ranch Road
Malibu, California 90265

Received
7/27/20
Planning Dept.

Re Short Term Rentals – for hearing Wednesday, July 29, 2020

Dear Commissioners,

This ordinance will profoundly affect Malibu's *community,* one way or the other. The more restrictive of STR's that it can be, the more Malibu will be able to preserve its *neighborhoods* – as defined not foremost by geographical boundaries, but by the character of the residents who form the community and the relationships they form among each other. Do we want Malibu to be a place for families to raise their kids, or one huge distributed residential hotel full of vacationing strangers? Already the community has suffered immeasurably by the increasing number of houses not occupied by permanent residents, due to both the proliferation of STR's and the increase in properties owned as investment commodities. The more restrictive this ordinance can be, the better.

The draft ordinance is a decent start, but needs to be shored up in some areas. This memo touches on a variety of considerations and issues found throughout the staff report and draft exhibits. Its focus is limited to the ordinance, not the interim ZTA. The overall organization is necessarily a bit random, with related considerations grouped under topic headers, so I would suggest that you compare each thought with your own notes as you go, one at a time.

"DESIGNATED OPERATOR" and "LIVES ONSITE"

Speaking to several people who've read the staff report, I've heard differing interpretations of what is meant by a "Designated Operator." Please ensure that it is what has already been established as viable in the Santa Monica ordinance, which requires that the primary resident (either the owner or a renter) must live onsite for the duration of the short-term rental. It must be no one whose status is more transient than primary-resident (owner or tenant).

Understanding that Council meant to carve out a limited exception for families that would like to go on vacation for a few weeks and rent out their home while they're gone, that could be better addressed through a new, slightly modified category of Special Event Permit (SEP). As it is, a standard SEP would be almost applicable, except for the current limitation that a permit "shall not

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be issued for an event of more than eight hours in duration."[1] A new SEP for owner-vacationers might allow, for instance, two vacation-rentouts per year, for a total of no more than a month (e.g., three weeks in summer plus a week over the winter holidays, or two weeks each). You could draft it to include a TOT charge, or not.

Otherwise, don't let what should be just a limited, common-sense exception for owner-vacationers weaken the restrictions applicable to the greater STR regime.

Following the Santa Monica ordinance, the Malibu ordinance should specify that the designated operator **must**: (A) live onsite; and (B) not be the host for more than one home share. But as drafted, the ordinance's definition of the DO doesn't do that:

> DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person **who is authorized** of a short-term rental unit **to**: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) **live onsite** at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.[2]

There should be a requirement that the DO actually reside on site, yet that language just says that they're "authorized to" live onsite. Please specify that, **as in Santa Monica, the DO must be a primary-resident tenant.**

Likewise, the definition of "lives onsite" should specify that it be that person's Primary Residence. In other words, **the DO need not be the property owner, but they must be a fully-functioning, ongoing member of the neighborhood.** As it is, the draft definition doesn't include that. Here:

> LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.[3]

There's no mention of primary residence. To be more specific about that, you could include the definition of "long-term resident" that's in the Santa Monica ordinance, as follows:

> "Long-Term Resident. Any natural person who, as of the date a home-share application is submitted pursuant to Section 6.20.021: (1) has occupied the dwelling unit that is the subject of the home-share application as his or her primary residence for at least the prior twelve months; and (2) has either: (i) if the natural person is a tenant, subtenant, lessee, or sublessee, a written rental housing agreement for the dwelling unit for a period of twelve months or more after the date the home-share application is submitted, or (ii) if the natural person is not a tenant, subtenant, lessee, or sublessee, written documentation establishing that the natural person will reside at the dwelling unit for a period of twelve months or more after the date the home-share application is submitted.

1 MMC 5.34.020.
2 Exhibit A, Section D, at 2 (pdf 17).
3 Exhibit A, Section D.

Those clauses would mostly cover the requirement that the DO actually lives on site.

In addition, the definition of "lives onsite" should specify that the DO lives in a proper habitation (however best defined), not in a car or motorhome in the driveway, or in a tent in the backyard.

Meanwhile. the language of MMC 17.55.010(A)(5)[4] is also insufficient in appearing not to require the owner or DO to be onsite:

> 17.55.010(A)(5): [The owner] Is available, or a designated operator is available, 24 hours a day, 7 days a week,at a phone number provided to both the City and any guest staying at the property to immediately answer a call from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property. No person may serve as a designated operator for more than one hosted shortterm rental.

Perhaps state that they must be so available by phone AND onsite. If the owner is running their house like a hotel, there should be a "concierge" present at all times, in the form of either the owner or the DO. Note that the Santa Monica ordinance does not provide for an "on call" option.

This concern is somewhat addressed in 17.55.040(A), but is it sufficient? I don't think so. As follows:

> The owner, or designated operator, must live onsite during any period of rental, and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner or designated operator must be located onsite, and present immediately upon request, during the hours of 8 p.m. to 6 a.m. during any period that the unit is rented.

That suggests that during the daytime there need not be anyone on site. That's probably not adequate. (What does Santa Monica require here?) If the guests are going to get into some sort of trouble – be it with the neighbors, or some function of the building or facilities – it's more likely to happen when they're awake, not when asleep during the night. If the DO must be onsite at night, they must be even more needed onsite during the day.

As a matter of housekeeping, note that only the staff report, not the draft ordinance, appends to the definition of "lives onsite" the phrase, "This definition is applicable to Chapter 17.55 only." Presumably you want that in the actual ordinance?

PRIMARY RESIDENT

The definition of "Primary Residence" should be as strict as it is in Santa Monica. Here is the draft Malibu definition followed by the Santa Monica definition. Requiring two forms of ID is standard in similar circumstances; it would reduce the likelihood of fraud. And is the City Manager the best arbiter – doesn't she have better things to do with her time?

4 Staff Report at 24.

Malibu:

> "Primary Residence" means the usual place of return for housing of an owner as documented to the satisfaction of the City Manager by an active voter registration, a valid driver's license or other government issued identification card with the address of the property. A person can only have one primary residence. This definition is applicable to Chapter 17.55 only.

Santa Monica:

> Primary Residence. The usual place of return for housing of an owner or long-term resident as **documented by at least two of the following**: motor vehicle registration, driver's license, California state identification card, voter registration, income tax return, property tax bill, or a utility bill. A person can only have one primary residence.

INDIVIDUALS

Be careful wherever individuals and persons are mentioned. For instance:

> 17.55.020(B) Short-Term Rental Permit Required: "An individual may not possess more than one active short-term rental permit. Each permit may include up to two listings, one per dwelling unit."

By that wording, joint owners of a property (e.g., a husband and wife) could each separately hold a permit on two properties. It might be better to say that "an **owner** may not possess more than one…", and if necessary, specifying that joint owners constitute a single owner for purposes of the statute.

Similarly, 17.55.040 states that "Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit."

Maybe there's a way to specify that only one permit may be held per *household*?

Similarly, a focus on individuals, rather than on physical objects/conditions, leads to interpretation difficulties in relation to the definition of "onsite" (discussed above, i.e., individuals "onsite" could be sleeping in cars) and parking (discussed below – where the focus should be on vehicles, not the persons who park them.)

DWELLING UNIT

The draft definition of "Dwelling unit" is more broad than Santa Monica's. Consider how much, if at all, STR's should be allowed in mobile homes, insofar as they don't typically have two separate living areas. Here's the draft definition followed by the Santa Monica definition for comparison:

Malibu[5]:

> DWELLING UNIT – one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:
> A. One or more habitable rooms **within a mobile home** which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
> B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and
> **C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.**

Santa Monica[6]:

> Dwelling Unit. One or more rooms designed, occupied, or intended for occupancy as separate living quarters, with full cooking, sleeping, and bathroom facilities for the exclusive use of a single household. A dwelling unit includes a single−family residence, and each unit of an apartment, duplex, or multiple dwelling structure designed as a separate habitation for one or more persons, but does not include units located within City-approved hotels, motels, and bed and breakfasts, as defined in Section 9.51.030(B)(15). An accessory dwelling unit, as defined by Section 9.31.300, that received its building permit on or after March 31, 2017, constitutes a separate dwelling unit for the purpose of this Chapter.

If mobile homes are not to be included, they should also not be listed in the zoning designations in Exhibit A, page 1.
What is the import of subsection C., that each mobilehome space or pad should be called a dwelling unit?

MULTI-FAMILY RESIDENTIAL

The draft zoning for Multi-family Residential reads:

> "Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City, up to a maximum of two dwelling units per parcel."

But the "up to two units" should apply only to buildings of at least four units. In other words, in no instance should more than 50% of a multi-unit building be rented short term. (This would affect buildings of two and three units.) A clarification to this effect should be inserted into "LIP Table B – Permitted Uses, Note 22."

Meanwhile, Staff writes: "Multifamily Rentals – Council directed that, in contrast to Santa Monica's ordinance, up to two multifamily dwelling units on a property may be rented unhosted so long as the other units on the property are rented on a long-term basis." Surely they mean "up to

5 Exhibit A, at 1.
6 https://qcode.us/codes/santamonica/view.php?topic=6-6_20&showAll=1&frames=on

two units in a multifamily dwelling." They are not proposing that there are to be single units rentable by multiple families, right?

PARKING

The provisions for parking may be insufficient in focusing on "persons" rather than vehicles. As it is written, even as the owner remains onsite, the owner's agent (spouse, friend, neighbor, child, etc.) could park any number of the family cars out on the public street, so that the guest(s) could park their multiple cars onsite, as long as that agent doesn't personally remain "present at the property."

> 17.55.010 (A)(8). Requires **all persons present at the property** during a period when there is a short-term rental of a property to park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces as determined by the Planning Director are exempt from this requirement, but no more than one (1) vehicle may be parked on the street by persons present at the property during the short-term rental of the property.

Apropos, among the City policies with which "the amendment will be consistent" is:

> 2.26 **Adequate parking should be provided to serve coastal access and recreation uses** to the extent feasible. Existing parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided.

I understand that such policies stand as is; they aren't directly under review here. But for purposes related to STR's, I would suggest the parking policy be amended to scratch "to the extent feasible" and everything following. **It should say that adequate parking *shall* be provided.** And the notion of determining "comparable replacement parking area" is fraught.

OTHER CONSIDERATIONS

The "General Requirements" (page 5) should be more explicit about which might apply to owners, designated operators (DO's) or both.
Among the proposed requirements is listed, "2. Takes responsibility for and actively prevent any nuisance activities that may take place during short-term rentals."
The word "immediately" should be inserted, as in: "...actively and *immediately* prevent…" That should be required of the owner and of the DO.

Re Policy 2.34 (Resolution page 3), what are "lower cost visitor-serving and recreation facilities?" and how might STR's harm or diminish them?

Same question re Policy 2.36. I'll leave off there.

Best regards,

Kraig Hill

Kathleen Stecko

Subject: Short Term Rental Ordinance
Attachments: Comments to Planning Commissioners about Short Term Rentals 07292020 - Part 1.doc; Comments to Planning Commissioners about Short Term Rentals 07292020 - Part 2.doc

From: lynorton@verizon.net
Sent: Tuesday, July 28, 2020 10:12 AM
To: Jeffrey D Jennings; John Mazza; Steve Uhring; Chris Marx; Kathleen Stecko; David Weil
Subject: Short Term Rental Ordinance

Received
7/28/20
Planning Dept.

Dear Commissioners,

These two documents are easy reading - each one is just making the argument for a single change to the draft ordinance.

Lynn Norton

Date Received 7/28/20 Time 10:30 AM
Planning Commission meeting of 7/29/20
Agenda Item No. 1A
Total No. of Pages 4

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

Dear Planning Commissioners,

I have a few proposed changes to the draft of the short term rental ordinance.
In general I'm very happy and appreciative that the City Council took this up and set the direction that Malibu should follow Santa Monica; and I think the staff did a good job covering a lot of important points in the draft.

This is my first of a couple emails I intend to send you.

The ONE change that I think is the Absolute Most Important is to eliminate the concept of a Designated Operator.
The whole idea was to follow the Santa Monica HOME-SHARING concept, and once we instead allow a designated operator, I hardly see any value to going through this exercise.

Santa Monica will only give a permit to a person for whom the dwelling unit is THEIR PRIMARY RESIDENCE. I hope we can care as much about preserving Malibu neighborhoods as Santa Monica cares about preserving theirs.

Here are some of the things Santa Monica says about this:

From the Santa Monica website Q&A:

> I am the property owner. Why can't I rent my own property for a short period while I'm away?
>
> > "Vacation rentals can have detrimental impacts on the character of residential neighborhoods by turning homes into de facto hostels or hotels, by leading to excessive noise and safety concerns, and by monopolizing available parking. The City has a responsibility to mitigate these impacts."

From the Santa Monica ordinance:

- ... Vacation rentals, where residents rent entire units to visitors and are not present during the visitors' stays, frequently disrupt the quietude and residential character of the neighborhoods and adversely impact the community;
- ... home-sharing does not create the same adverse impacts as unsupervised vacation rentals when the home-shares are hosted by the owner or a long-term resident who lives on site and is present to introduce guests to the City's neighborhoods and regulate guests' behavior...

What the mayor of Santa Monica, Kevin McKeown, said when the home-sharing ordinance was passed in 2015:

> McKeown said he hears the complaints, even those about homeowners needing the extra money an Airbnb rental can provide. But he said, "there's lots of ways to make extra money by running an illegal business, and we don't condone any of them."

(Article can be found at: https://www.npr.org/sections/thetwo-way/2015/05/13/406587575/santa-monica-cracks-down-on-airbnb-bans-vacation-rentals-under-a-month)

City Council resolution #15 says "The general welfare of the City's residents shall always be considered as primary to any special interests of any individual or group of individuals…" Allowing designated operators even for vacation rentals is only about putting extra money in the pocket of a few individuals to the detriment of the general welfare of the rest of the neighborhood. I had the privilege of having a conversation with the Mayor of Santa Monica, Kevin McKeown, this past week and I asked him how Santa Monica had arrived at some if their conclusions in their homesharing ordinance. When I asked if they had considered designated operators he said in Santa Monica, they considered that to be hotels and hotel managers.

If the primary resident of the household, who is a Member of the Community does a home share in their house,

- they are answerable because they won't want to be a jerk to their own neighbors AND
- they know the rules and customs of the community and are in the same living space with the renters in order to immediately observe and correct any violation to those community rules proactively; they will know if renters are coming and going at 4 am and treating the neighborhood like a resort instead of like a neighborhood AND
- they will be ultra-careful about who they bring into their own living space AND
- they know Malibu and for just one example, what to do in a fire.

A designated operator is ANYONE; they could turn out to be a derelict and they are just One More Unknown in the neighborhood.

Under the Malibu draft, *because of the designated operator provision*, there's nothing to stop a house from being turned into a non-stop rental unit, a "de facto hostel or hotel" just as if we had no ordinance. Yes, the homeowner has to show that he has his driver's license and voter registration at the property, but all this really does is prevent the homeowner from also claiming some OTHER property as his primary residence. It doesn't require that the homeowner is EVER present in the neighborhood or a part of the community. And as Santa Monica Mayor Kevin McKeown said back in 2015, when "there is no permanent resident on the site, we've lost that part of the fabric of our community"

When the primary resident is the one doing an STR, it is more PREVENTATIVE of problems instead of just having a way to DEAL WITH bad problems. ANY STR introduces risk into our neighborhoods, for example the risk that some small number of people might come to a rich neighborhood in Malibu just to case it, or to be a predator. Having the OWNER/PRIMARY RESIDENT onsite, who deeply cares about such things, reduces the risk.

Dear Planning Commissioners,

My second point … I think it was a mistake that we went down the road of compromising the multi-family dwellings.

I think we should make the same restrictions that Santa Monica does. Santa Monica doesn't make a separate set of provisions for multi-unit complexes other than to include this within their definition of "Dwelling Unit": "… each unit of an apartment, duplex, or multiple dwelling structure designed as a separate habitation for one or more persons".

From Santa Monica's website FAQ's:

> **I own a duplex/triplex and reside in one of the units. May I home-share one of the vacant units if I am present in my unit during my guest's stay?**
>
> No. You may only home-share a portion of the dwelling unit in which you reside.

And, regarding the homesharing ordinance in general:

> **Does the law apply in all zoning districts?**
>
> Yes, the law applies citywide to all residential units in the City, including single family homes, condominiums and apartments.

We have to have solidarity amongst all residents, related to the most important thing that we can preserve as a community: our experience of living in Malibu. Otherwise, "First they came for the apartment dwellers, and I did not speak out-because I was not an apartment dweller …"

I'm not very familiar with many of the multi-unit properties in Malibu. But if any of them have interior common areas, like a foyer that you enter before going into your unit, it seems like a huge security loss for a person entering their own building with their key late at night, that strangers could also enter that building, instead of just their neighbors. Also, it just isn't a neighborly experience that two of your four adjoining neighbors could be constantly new faces. And there could be way more activity than a normal neighbor would have, potentially in an adjoining unit, without reaching the level of being a legally certifiable nuisance. People who live in and raise their kids in multi-unit complexes want to have a neighborly community experience too!

Kathleen Stecko

Subject: Short term rental comments and the court of appeal decision
Attachments: Comments to Planning Commissioners about Short Term Rentals 07292020 - Part 3.doc; Appeal Court Decision in Santa Monica vs Airbnb regarding short term rentals.pdf

Received
7/28/20
Planning Dept.

From: lynorton
Sent: Tuesday, July 28, 2020 1:22 PM
To: Jeffrey D Jennings; John Mazza; Steve Uhring; Chris Marx; Kathleen Stecko; David Weil
Subject: Short term rental comments and the court of appeal decision

Dear Commissioners,

Here are some miscellaneous comments on the short term rental ordinance that are based on me doing a side by side comparison of our draft with the Santa Monica ordinance.

Because some of my points relate to the court decision in Santa Monica, I'm going to forward the whole court decision along with my points to the Commission. (you may want to ask our attorney to look at those legal questions prior to the meeting.)

Thanks!

Lynn Norton

Dear Planning Commissioners,

This email is the result of my looking at the Malibu staff report and the Santa Monica ordinance side by side, so, some miscellaneous details.

(1) In the Malibu draft, under the definition of Guest House, a phrase has been added and it should not be: "unless permitted pursuant to a valid short-term rental permit". Guest Houses in Malibu have always been defined such that they "are not rented or otherwise used as a separate dwelling" and there's no reason why creating a short term rental ordinance should suddenly turn every Guest House in Malibu into a legal separate dwelling.
(2) In the Malibu draft, under that definition of SHORT TERM RENTAL, it talks about renting "for a period of 30 consecutive days or less to a transient". Strike "to a transient" > it doesn't matter to whom you are renting.
(3) In the Malibu draft under section 17.55.010 relating to compliance rules, number 8 related to parking it says that "one vehicle may be parked on the street by persons present at the property during the short term rental…" Resolve the ambiguity that this doesn't mean one vehicle per person and also that the rule applies for the duration of the rental regardless of whether the persons are present or whether they walk to the beach and are not present. I suggest "one vehicle in total, belonging to either the host or the guests, may be parked on the street during the short term rental…" [I asked, and this is the meaning staff intended.]
(4) In section 17.55.020 paragraph B it says "Each permit may include up to two listings, one per dwelling unit." The City Council never discussed allowing two STR's on a property – that should be removed.
(5) In the Malibu draft, 17.55.090 C refers to the city's registry of STR properties, but the Malibu draft does not include a paragraph similar to that in the Santa Monica ordinance which describes that such a registry will be created. This should be added in whatever location is appropriate:
"All hosts and their respective properties, authorized by the City for short term rental purposes pursuant to this Section, shall be listed on a registry created by the City and updated periodically by the City. The City shall publish the registry, and a copy shall be sent electronically to any person upon request." (That is the Santa Monica language – I only changed the word homesharing to "short term rental".)
(6) The Santa Monica ordinance has some good things in its Enforcement section that aren't in the Malibu draft. Please take a look at it. It talks about reimbursing the city for fees if a person is convicted of violating the STR law and it also says "Any interested person may seek an injunction or other relief to prevent or remedy violations of this chapter. The prevailing party in such an action shall be entitled to recover reasonable costs and attorney's fees."

My remaining comments all pertain to the fact that Malibu should not put any restrictions or demands on Platforms beyond what Santa Monica has done, since we want to reap the benefit of Santa Monica having already prevailed in litigation over this.

I ask that you go over each of these following points with the City Attorney to make sure the language is okay. I did read the whole court decision from Santa Monica's lawsuit with AirBnb and my understanding of what is important is that the Platform cannot be required to monitor the content that is posted on their website UNLESS AND UNTIL they are completing a booking transaction. With that in mind:

(1) In the Malibu draft, 17.55.080 paragraph D says
"No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental."

The corresponding paragraph in Santa Monica's ordinance says this:
"No person shall undertake, maintain, authorize, aid, facilitate or advertise any vacation rental or any home-sharing that does not comply with this Chapter. For the purposes of this section only, person does not include a hosting platform."

For our attorney – is it okay that we don't exclude platforms from this rule? My understanding is that we shouldn't be asking them to vet the contents on their website, and they wouldn't know if someone posted an invalid rental.

(2) In the Malibu draft 17.55.090 paragraph B says "Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay." In place of the word "owner" it would be safer to use the Santa Monica language "person responsible", because the Platform shouldn't need to know/confirm if the person doing the listing is really the owner.

(3) Finally, in Malibu draft 17.55.090 paragraph D says
"Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit."

And the corresponding paragraph in Santa Monica's ordinance says
"Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a vacation rental or unregistered home-share, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit."

I don't know what Santa Monica's motive was behind this, but they are forbidding fees related to "vacation rentals or unregistered home-shares" both of which are ILLEGAL in Santa Monica. If I'm understanding that right and Santa Monica is not forbidding such fees with regard to legal homeshares, then Malibu should not.

FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

HOMEAWAY.COM, INC.; AIRBNB INC., *Plaintiffs-Appellants,* v. CITY OF SANTA MONICA, *Defendant-Appellee.*	No. 18-55367 D.C. Nos. 2:16-cv-06641-ODW-AFM 2:16-cv-06645-ODW-AFM

HOMEAWAY.COM, INC., *Plaintiff-Appellant,* and AIRBNB INC., *Plaintiff,* v. CITY OF SANTA MONICA, *Defendant-Appellee.*	No. 18-55805 D.C. Nos. 2:16-cv-06641-ODW-AFM 2:16-cv-06645-ODW-AFM

AIRBNB INC., *Plaintiff-Appellant*, v. CITY OF SANTA MONICA, *Defendant-Appellee.*	No. 18-55806 D.C. No. 2:16-cv-06645-ODW-AFM OPINION

Appeal from the United States District Court
for the Central District of California
Otis D. Wright II, District Judge, Presiding

Argued and Submitted October 12, 2018
Pasadena, California

Filed March 13, 2019

Before: Mary M. Schroeder and Jacqueline H. Nguyen, Circuit Judges, and Michael H. Simon,* District Judge.

Opinion by Judge Nguyen

* The Honorable Michael H. Simon, United States District Judge for the District of Oregon, sitting by designation.

SUMMARY[**]

Civil Rights

The panel affirmed the district court's dismissal, for failure to state a claim, of a complaint brought by HomeAway.com and Airbnb Inc. challenging the City of Santa Monica's Ordinance 2535, which imposes various obligations on companies that host online platforms for short-term vacation rentals.

The Ordinance, as amended in 2017, imposes four obligations on hosting platforms: (1) collecting and remitting Transient Occupancy Taxes; (2) regularly disclosing listings and booking information to the City; (3) refraining from booking properties not licensed and listed on the City's registry; (4) and refraining from collecting a fee for ancillary services.

The panel rejected plaintiffs' assertion that the Ordinance violated the Communications Decency Act of 1996, 47 U.S.C. § 230 because it required them to monitor and remove third-party content, and therefore interfered with federal policy protecting internet companies from liability for posting third-party content. The panel stated that the Ordinance prohibits processing transactions for unregistered properties. It does not require the Platforms to review the content provided by the hosts of listings on their websites. Rather, the panel noted that the only monitoring that appeared necessary in order to comply with the Ordinance

[**] This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

related to incoming requests to complete a booking transaction—content that, while *resulting from* the third-party listings, was distinct, internal, and nonpublic. The panel concluded that the Ordinance was not inconsistent with the Communications Decency Act, and therefore was not expressly preempted by its terms. The panel further concluded that the Ordinance would not pose an obstacle to Congress's aim to encourage self-monitoring of third-party content, and therefore obstacle preemption did not preclude Santa Monica from enforcing the Ordinance.

The panel held that the Ordinance did not implicate speech protected by the First Amendment, concluding that the Ordinance's prohibitions regulate nonexpressive conduct, specifically booking transactions, and do not single out those engaged in expressive activity.

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OPINION

NGUYEN, Circuit Judge:

Located on the coast of Southern California, the city of Santa Monica consists of only about eight square miles but serves 90,000 residents and as many as 500,000 visitors on weekends and holidays. Similar to other popular tourist destinations, Santa Monica is struggling to manage the disruptions brought about by the rise of short-term rentals facilitated by innovative startups such as Appellants HomeAway.com, Inc. and Airbnb Inc. (the "Platforms"). Websites like those operated by the Platforms are essentially online marketplaces that allow "guests" seeking accommodations and "hosts" offering accommodations to connect and enter into rental agreements with one another.[1] As of February 2018, Airbnb had approximately 1,400 listings in Santa Monica, of which about 30 percent are in

[1] The Platforms do not own, lease, or manage any of the properties listed on their websites, nor are they parties to the rental agreements. Instead, the content provided alongside the listings—such as description, price, and availability—are provided by the hosts. For their services, the Platforms collect a fee from each successful booking.

the "coastal zone" covered by the California Coastal Act, while HomeAway.com had approximately 300 live listings in Santa Monica, of which approximately 40 percent are in the coastal zone.

Santa Monica's council reported that the proliferation of short-term rentals had negatively impacted the quality and character of its neighborhoods by "bringing commercial activity and removing residential housing stock from the market" at a time when California is already suffering from severe housing shortages. In response, the city passed an ordinance regulating the short-term vacation rental market by authorizing licensed "home-sharing" (rentals where residents remain on-site with guests) but prohibiting all other short-term home rentals of 30 consecutive days or less.

]The Platforms filed suit, alleging that the city ordinance is preempted by the Communications Decency Act and impermissibly infringes upon their First Amendment rights. The district court denied preliminary injunctive relief, and dismissed the Platforms' complaints for failure to state a claim under the Communications Decency Act and the First Amendment. We affirm.

BACKGROUND

In May 2015, Santa Monica passed its initial ordinance regulating the short-term vacation rental market by authorizing licensed "home-sharing" (rentals where residents remain on-site with guests) but prohibiting all other forms of short-term rentals for 30 consecutive days or less. Santa Monica Ordinance 2484 (May 12, 2015), *codified as amended*, Santa Monica Mun. Code §§ 6.20.010–6.20.100. The ordinance reflected the city's housing goals of "preserving its housing stock and preserving the quality and character of its existing single and multi-family residential

neighborhoods." *Id.* As originally enacted, the ordinance prohibited hosting platforms from acting to "undertake, maintain, authorize, aid, facilitate or advertise any Home-Sharing activity" that was not authorized by the city. Hosting platforms also were required to collect and remit taxes, and to regularly disclose listings and booking information to the city.

The Platforms each filed a complaint in the Central District of California challenging the initial ordinance, and the district court consolidated the cases for discovery and pretrial matters. On September 21, 2016, the parties stipulated to stay the case while the city considered amendments to the local ordinance. During the stay period, the district court for the Northern District of California denied a preliminary injunction requested by the plaintiffs in a separate case challenging a similar ordinance in San Francisco. *See Airbnb Inc. v. City & County of San Francisco*, 217 F. Supp. 3d 1066 (N.D. Cal. 2016). That case ended in a settlement in which the Platforms agreed to comply with an amended version of San Francisco's ordinance that prohibited booking unlawful transactions but provided a safe harbor wherein any platform that complies with the responsibilities set out in the Ordinance will be presumed to be in compliance with the law.

In January 2017, Santa Monica likewise amended its own ordinance. The version challenged here, Ordinance 2535 (the "Ordinance"), retains its prohibitions on most types of short-term rentals, with the exception of licensed home-shares. In addition, the Ordinance imposes four obligations on hosting platforms directly: (1) collecting and remitting "Transient Occupancy Taxes," (2) disclosing certain listing and booking information regularly, (3) refraining from completing any booking transaction for

properties not licensed and listed on the City's registry, and (4) refraining from collecting or receiving a fee for "facilitating or providing services ancillary to a vacation rental or unregistered home-share." If a housing platform operates in compliance with these obligations, the Ordinance provides a safe harbor by presuming the platform to be in compliance with the law. Otherwise, violations are punishable by a fine of up to $500 and/or imprisonment for up to six months.

After the district court lifted the stay, the Platforms amended their complaint to challenge the revised ordinance and moved for a preliminary injunction. Santa Monica moved to dismiss the amended complaint. The court denied the Platforms' motion for preliminary injunctive relief and subsequently granted Santa Monica's motion to dismiss on the ground that the Platforms failed to state a claim under federal law, including the Communications Decency Act of 1996 and the First Amendment. The district court also declined to exercise supplemental jurisdiction over their remaining state-law claims.[2] The Platforms timely appealed these decisions, and we consolidated the appeals.

[2] The Platforms do not appeal the district court's dismissal of other federal claims brought under the Fourth Amendment and the Stored Communications Act. Similarly, they do not challenge the court's decision not to exercise supplemental jurisdiction over the state-law claims under the California Coastal Act if we affirm the dismissal of their federal claims. Because we affirm the district court's dismissal, we need not consider the state-law claims. We deny Santa Monica's motion for judicial notice of its prior enforcement actions because the dispute as to its prior actions relates only to the state-law claims.

JURISDICTION AND STANDARD OF REVIEW

We have jurisdiction under 28 U.S.C. § 1291. We review the district court's order of dismissal de novo, "accepting all factual allegations in the complaint as true and construing them in the light most favorable to the nonmoving party." *Yagman v. Garcetti*, 852 F.3d 859, 863 (2017) (quoting *Ebner v. Fresh, Inc.*, 838 F.3d 958, 962 (9th Cir. 2016)).

DISCUSSION

I. Communications Decency Act

The Communications Decency Act of 1996 ("CDA" or the "Act"), 47 U.S.C. § 230, provides internet companies with immunity from certain claims in furtherance of its stated policy "to promote the continued development of the Internet and other interactive computer services." *Id.* § 230(b)(1). Construing this immunity broadly, the Platforms argue that the Ordinance requires them to monitor and remove third-party content, and therefore violates the CDA by interfering with federal policy protecting internet companies from liability for posting third-party content. Santa Monica, on the other hand, argues that the Ordinance does not implicate the CDA because it imposes no obligation on the Platforms to monitor or edit any listings provided by hosts. Santa Monica contends that the Ordinance is simply an exercise of its right to enact regulations to preserve housing by curtailing "incentives for landlords to evade rent control laws, evict tenants, and convert residential units into *de facto* hotels."

We begin our analysis with the text of the CDA. *See BP America Prod. Co. v. Burton*, 549 U.S. 84, 91 (2006). Section 230(c)(1) states that "[n]o provider or user of an

interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider." *Id.* § 230(c)(1). The CDA explicitly preempts inconsistent state laws: "Nothing in this section shall be construed to prevent any State from enforcing any State law that is consistent with this section. No cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section." *Id.* § 230(e)(3).

We have construed these provisions to extend immunity to "(1) a provider or user of an interactive computer service (2) whom a plaintiff seeks to treat, under a state law cause of action, as a publisher or speaker (3) of information provided by another information content provider." *Barnes v. Yahoo!, Inc.*, 570 F.3d 1096, 1100–01 (9th Cir. 2009). Only the second element is at issue here: whether the Ordinance treats the Platforms as a "publisher or speaker" in a manner that is barred by the CDA. Although the CDA does not define "publisher," we have defined "publication" in this context to "involve[] reviewing, editing, and deciding whether to publish or to withdraw from publication third-party content." *Id.* at 1102 (citing *Fair Hous. Council v. Roommates.com, LLC*, 521 F.3d 1157, 1170–71 (9th Cir. 2008) (en banc)).

The Platforms offer two different theories as to how the Ordinance in fact reaches "publication" activities. First, the Platforms claim that the Ordinance is expressly preempted by the CDA because, as they argue, it implicitly requires them "to monitor the content of a third-party listing and compare it against the City's short-term rental registry before allowing any booking to proceed." Relying on *Doe v. Internet Brands*, 824 F.3d 846, 851 (9th Cir. 2016), the Platforms take the view that CDA immunity follows

whenever a legal duty "affects" how an internet company "monitors" a website.

However, the Platforms read *Internet Brands* too broadly. In that case, two individuals used the defendant's website to message and lure the plaintiff to sham auditions where she was drugged and raped. *Id.* at 848. We held that, where the website provider was alleged to have known independently of the ongoing scheme beforehand, the CDA did not bar an action under state law for failure to warn. *Id.* at 854. We observed that a duty to warn would not "otherwise affect how [the defendant] publishes or monitors" user content. *Id.* at 851. Though the defendant did, in its business, act as a publisher of third-party content, the underlying legal duty at issue did not seek to hold the defendant liable as a "publisher or speaker" of third-party content. *Id.* at 853; *see* 47 U.S.C. § 230(c)(1). We therefore declined to extend CDA immunity to the defendant for the plaintiff's failure-to-warn claim. *Internet Brands*, 824 F.3d at 854.

We do not read *Internet Brands* to suggest that CDA immunity attaches any time a legal duty might lead a company to respond with monitoring or other publication activities. It is not enough that third-party content is involved; *Internet Brands* rejected use of a "but-for" test that would provide immunity under the CDA solely because a cause of action would not otherwise have accrued but for the third-party content. *Id.* at 853. We look instead to what the duty at issue actually requires: specifically, whether the duty would necessarily require an internet company to monitor third-party content. *See id.* at 851, 853.

Here, the Ordinance does not require the Platforms to monitor third-party content and thus falls outside of the CDA's immunity. The Ordinance prohibits processing

transactions for unregistered properties. It does not require the Platforms to review the content provided by the hosts of listings on their websites. Rather, the only monitoring that appears necessary in order to comply with the Ordinance relates to incoming requests to complete a booking transaction—content that, while *resulting from* the third-party listings, is distinct, internal, and nonpublic. As in *Internet Brands*, it is not enough that the third-party listings are a "but-for" cause of such internal monitoring. *See* 824 F.3d at 853. The text of the CDA is "clear that neither this subsection nor any other declares a general immunity from liability deriving from third-party content." *Barnes*, 570 F.3d at 1100. To provide broad immunity "every time a website uses data initially obtained from third parties would eviscerate [the CDA]." *Barnes*, 570 F.3d at 1100 (quoting *Roommates.com*, 521 F.3d at 1171 (9th Cir. 2008) (en banc)). That is not the result that Congress intended.

Nor could a duty to cross-reference bookings against Santa Monica's property registry give rise to CDA immunity. While keeping track of the city's registry is "monitoring" third-party content in the most basic sense, such conduct cannot be fairly classified as "publication" of third-party content. The Platforms have *no* editorial control over the registry whatsoever. As with tax regulations or criminal statutes, the Ordinance can fairly charge parties with keeping abreast of the law without running afoul of the CDA.

Second, the Platforms argue that the Ordinance "in operation and effect . . . forces [them] to *remove* third-party content." Although it is clear that the Ordinance does not expressly mandate that they do so, the Platforms claim that "common sense explains" that they cannot "leave in place a website chock-full of un-bookable listings." For purposes of

our review, we accept at face value the Platforms' assertion that they will choose to remove noncompliant third-party listings on their website as a consequence of the Ordinance.[3] Nonetheless, their choice to remove listings is insufficient to implicate the CDA.

On its face, the Ordinance does not proscribe, mandate, or even discuss the content of the listings that the Platforms display on their websites. *See* Santa Monica Mun. Code §§ 6.20.010–6.20.100. It requires only that transactions involve licensed properties. We acknowledge that, as the Platforms explain in Airbnb's complaint and in the briefing on appeal, removal of these listings would be the best option "from a business standpoint." But, as in *Internet Brands*, the underlying duty "could have been satisfied without changes to content posted by the website's users." *See* 824 F.3d at 851. Even assuming that removing certain listings may be the Platforms' most practical compliance option, allowing internet companies to claim CDA immunity under these circumstances would risk exempting them from most local regulations and would, as this court feared in *Roommates.com*, 521 F.3d at 1164, "create a lawless no-man's-land on the Internet." We hold that the Ordinance is not "inconsistent" with the CDA, and is therefore not expressly preempted by its terms. *See* 47 U.S.C. § 230(e)(3).

Finally, the Platforms argue that, even if the Ordinance is not expressly preempted by the CDA, the Ordinance imposes "an obstacle to the accomplishment and execution

[3] The Platforms argued below that the district court must accept as true their allegation that they would "have to" monitor and screen listings. As a matter of law, the Ordinance does not require them to do so. Courts are "not bound to accept as true a legal conclusion couched as a factual allegation." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Papasan v. Allain*, 478 U.S. 265, 286 (1986)).

of the full purposes and objectives of Congress." *See Crosby v. Nat'l Foreign Trade Council*, 530 U.S. 363, 372–73 (2000). Reading the CDA expansively, they argue that the Ordinance conflicts with the CDA's goal "to preserve the vibrant and competitive free market that presently exists for the Internet . . . unfettered by Federal or State regulation." *See* § 230(b)(2). We have consistently eschewed an expansive reading of the statute that would render unlawful conduct "magically . . . lawful when [conducted] online," and therefore "giv[ing] online businesses an unfair advantage over their real-world counterparts." *See Roommates.com*, 521 F.3d at 1164, 1164–65 n.15. For the same reasons, while we acknowledge the Platforms' concerns about the difficulties of complying with numerous state and local regulations, the CDA does not provide internet companies with a one-size-fits-all body of law. Like their brick-and-mortar counterparts, internet companies must also comply with any number of local regulations concerning, for example, employment, tax, or zoning. Because the Ordinance would not pose an obstacle to Congress's aim to encourage self-monitoring of third-party content, we hold that obstacle preemption does not preclude Santa Monica from enforcing the Ordinance.

Fundamentally, the parties dispute how broadly to construe the CDA so as to continue serving the purposes Congress envisioned while allowing state and local governments breathing room to address the pressing issues faced by their communities. We have previously acknowledged that the CDA's immunity reaches beyond the initial state court decision that sparked its enactment. *See Fair Hous. Council v. Roommates.com, LLC*, 521 F.3d 1157, 1163 (9th Cir. 2008) (en banc) (discussing *Stratton Oakmont, Inc. v. Prodigy Servs. Co.*, which held an internet company liable for defamation when it removed some, but

not all, harmful content from its public message boards, 1995 WL 323710 (N.Y. Sup. Ct. May 24, 1995) (unpublished)). As the Platforms correctly note, the Act's policy statements broadly promote "the vibrant and competitive free market that presently exists for the Internet . . . unfettered by Federal or State regulation." *See* 47 U.S.C. § 230(b)(2). "[A] law's scope often differs from its genesis," and we have repeatedly held the scope of immunity to reach beyond defamation cases. *Barnes*, 570 F.3d at 1101 (quoting *Chicago Lawyers' Comm. for Civil Rights Under Law, Inc. v. Craigslist, Inc.*, 519 F.3d 666, 671 (7th Cir. 2008), *as amended* (May 2, 2008)) (citing cases applying immunity for causes of action including discrimination, fraud, and negligence).

At the same time, our cases have hewn closely to the statutory language of the CDA and have limited the expansion of its immunity beyond the protection Congress envisioned. As we have observed, "the [relevant] section is titled 'Protection for "good Samaritan" blocking and screening of offensive material.'" *Roommates.com*, 521 F.3d at 1163–64 (quoting 47 U.S.C. § 230(c)); *see also Internet Brands*, 824 F.3d at 852. Congress intended to "spare interactive computer services [the] grim choice" between voluntarily filtering content and being subject to liability on the one hand, and "ignoring all problematic posts altogether [to] escape liability." *Roommates.com*, 521 F.3d at 1163–64. In contrast, the Platforms face no liability for the content of the bookings; rather, any liability arises only from unlicensed bookings. We do not discount the Platforms' concerns about the administrative burdens of state and local regulations, but we nonetheless disagree that § 230(c)(1) of the CDA may be read as broadly as they advocate, or that we may ourselves expand its provisions beyond what Congress initially intended.

In sum, neither express preemption nor obstacle preemption apply to the Ordinance. We therefore affirm the district court's dismissal for failure to state a claim under the CDA.

II. First Amendment

The Platforms also contend that the district court erred in dismissing their First Amendment claims. They argue that, even if the plain language of the Ordinance only reaches "conduct," *i.e.*, booking unlicensed properties, the law effectively imposes a "content-based financial burden" on commercial speech and is thus subject to First Amendment scrutiny. The district court concluded that the Ordinance "regulates conduct, not speech, and that the conduct banned . . . does not have such a 'significant expressive element' as to draw First Amendment protection." We agree.

That the Ordinance regulates "conduct" is not alone dispositive. The Supreme Court has previously applied First Amendment scrutiny when "'speech' and 'nonspeech' elements are combined in the same course of conduct." *See United States v. O'Brien*, 391 U.S. 367, 376 (1968). But "restrictions on protected expression are distinct from restrictions on economic activity or, more generally, on nonexpressive conduct." *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 567 (2011). While the former is entitled to protection, "the First Amendment does not prevent restrictions directed at commerce or conduct from imposing incidental burdens on speech." *Id.*

To determine whether the First Amendment applies, we must first ask the "threshold question [of] whether conduct with a 'significant expressive element' drew the legal remedy or the ordinance has the inevitable effect of 'singling out those engaged in expressive activity.'" *Int'l Franchise*

Ass'n v. City of Seattle, 803 F.3d 389, 408 (9th Cir. 2015) (quoting *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, 706–07 (1986)). A court may consider the "inevitable effect of a statute on its face," as well as a statute's "stated purpose." *Sorrell*, 564 U.S. at 565. However, absent narrow circumstances, a court may not conduct an inquiry into legislative purpose or motive beyond what is stated within the statute itself. *See O'Brien*, 391 U.S. at 383 n.30. Because the conduct at issue—completing booking transactions for unlawful rentals—consists only of nonspeech, nonexpressive conduct, we hold that the Ordinance does not implicate the First Amendment.

First, the prohibitions here did not target conduct with "a significant expressive element." *See Arcara*, 478 U.S. at 706. Our decision in *International Franchise Ass'n* is analogous. There, the plaintiff challenged a minimum wage ordinance that would have accelerated the raising of the minimum wage to $15 per hour for franchise owners and other large employers. 803 F.3d at 389. In denying a preliminary injunction, the district court held that the plaintiffs were not likely to succeed on their First Amendment argument that the ordinance treated them differently based on their "speech and association" decisions to operate within a franchise relationship framework. *Id.* at 408–09. We agreed, concluding that the "business agreement or business dealings" were not conduct with a "significant expressive element." *Id.* at 408. Instead, "Seattle's minimum wage ordinance [was] plainly an economic regulation that [did] not target speech or expressive conduct." *Id.*

Similarly, here, the Ordinance is plainly a housing and rental regulation. The "inevitable effect of the [Ordinance] on its face" is to regulate nonexpressive conduct—namely,

booking transactions—not speech. *See Sorrell*, 564 U.S. at 565. As in *International Franchise Ass'n*, the "business agreement or business dealings" associated with processing a booking is not conduct with a "significant expressive element." *See* 803 F.3d at 408 (citation and quotation marks omitted). Contrary to the Platforms' claim, the Ordinance does not "require" that they monitor or screen advertisements. It instead leaves them to decide how best to comply with the prohibition on booking unlawful transactions.

Nor can the Platforms rely on the Ordinance's "stated purpose" to argue that it intends to regulate speech. The Ordinance itself makes clear that the City's "central and significant goal . . . is preservation of its housing stock and preserving the quality and nature of residential neighborhoods." As such, with respect to the Platforms, the only inevitable effect, and the stated purpose, of the Ordinance is to prohibit them from completing booking transactions for unlawful rentals.

As for the second prong of our inquiry, whether the Ordinance has the effect of "singling out those engaged in expressive activity," *Arcara*, 478 U.S. at 706–07, we conclude that it does not. As the Platforms point out, websites like Craigslist "advertise the very same properties," but do not process transactions. Unlike the Platforms, those websites would not be subject to the Ordinance, underscoring that the Ordinance does not target websites that post listings, but rather companies that engage in unlawful booking transactions.

Moreover, the incidental impacts on speech cited by the Platforms raise minimal concerns. The Platforms argue that the Ordinance chills commercial speech, namely, advertisements for third-party rentals. But even accepting

that the Platforms will need to engage in efforts to validate transactions before completing them, incidental burdens like these are not always sufficient to trigger First Amendment scrutiny. *See Int'l Franchise Ass'n*, 803 F.3d at 408 ("[S]ubjecting every incidental impact on speech to First Amendment scrutiny 'would lead to the absurd result that any government action that had some conceivable speech inhibiting consequences . . . would require analysis under the First Amendment.'" (quoting *Arcara*, 478 U.S. at 708 (O'Connor, J., concurring))). Furthermore, to the extent that the speech chilled advertises unlawful rentals, "[a]ny First Amendment interest . . . is altogether absent when the commercial activity itself is illegal and the restriction on advertising is incidental to a valid limitation on economic activity." *See Pittsburgh Press Co. v. Pittsburgh Comm'n on Human Relations*, 413 U.S. 376, 389 (1973).

Finally, because the Ordinance does not implicate speech protected by the First Amendment, we similarly reject the Platforms' argument that the Ordinance is unconstitutional without a scienter requirement. In most cases, there is no "closed definition" on when a criminal statute must contain a scienter requirement. *See Morissette v. United States*, 342 U.S. 246, 260 (1952). However, the Supreme Court has drawn a bright line in certain contexts, such as holding that the First Amendment requires statutes imposing criminal liability for obscenity or child pornography to contain a scienter requirement. *See New York v. Ferber*, 458 U.S. 747, 765 (1982). Such a requirement prevents "a severe limitation on the public's access to constitutionally protected matter" as would result from inflexible laws criminalizing "bookshops and periodical stands." *Smith v. California*, 361 U.S. 147, 153 (1959).

Here, even assuming that the Ordinance would lead the Platforms to voluntarily remove some advertisements for lawful rentals, there would not be a "severe limitation on the public's access" to lawful advertisements, especially considering the existence of alternative channels like Craigslist. *Id.* Such an incidental burden is far from "a substantial restriction on the freedom of speech" that would necessitate a scienter requirement. *Id.* at 150. Otherwise, "[t]here is no specific constitutional inhibition against making the distributors of good[s] the strictest censors of their merchandise." *Id.* at 152.

III. Remaining Claims

On appeal, the Platforms do not challenge dismissal of their other federal law claims "in light of the district court's interpretation of the Ordinance as only requiring disclosure of information pursuant to requests that comply with the Fourth Amendment and Stored Communications Act." Similarly, the parties specified that they would "not challenge the district court's decision to decline supplemental jurisdiction if all the Platforms' federal claims were properly dismissed." Accordingly, we need not consider the remaining claims.

* * *

Because the district court properly dismissed the Platforms' complaints for failure to state a claim, we dismiss as moot the appeals from the denial of preliminary injunctive relief.

AFFIRMED in part, DISMISSED in part.

Kathleen Stecko

Subject: Some reference items for tomorrow
Attachments: MALIBU City Council Policy #15.pdf

Received
7/28/20
Planning Dept.

From: Lynn Norton
Sent: Tuesday, July 28, 2020 8:44 PM
To: Jeffrey D Jennings; John Mazza; Steve Uhring; Chris Marx; Kathleen Stecko; David Weil
Subject: Some reference items for tomorrow

Dear Commissioners,

A couple resources for you to have for the meeting tomorrow.

1) attached - city council policy #15

2) below - a link to the article related to a Santa Monica lawsuit over homesharing, which includes this paragraph:

The trial court decision in this case made clear that the City's Home-Sharing Ordinance is a valid exercise of the City's police powers and not preempted by the California Coastal Act. The trial court further held that the Home-Sharing Ordinance "does not require a costal development permit and the [Coastal] Commission's authority does not extent to approving or rejecting general laws adopted by cities."

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.santamonica.gov%2fpress%2f2019%2f03%2f07%2fsanta-monica-city-prosecutors-obtain-a-trio-of-wins-in-short-term-vacation-rental-enforcement-cases&c=E,1,Qc0yGjqg_QcO8eaP4ku0Luzl-ftFIMtS8V4s-U9uS9f-eSyMmZEa52uBvgfXfer0MKRwvf8xs0cd_s0eChkuuFHIRDW7IPaexzOiH5rG&typo=1

Lynn Norton

City of Malibu

City Council Policy

Policy #15

Title: General Welfare to be Primary Over Special or Group Interests

Purpose: To articulate the importance of the general welfare of the community over the special interests of an individual or group whether private citizens or City officials.

Policy Statement:

The general welfare of the City's residents shall always be considered as primary to any special interests of any individual or group of individuals or the interests of any individual elected or appointed City official.

Implementation:

In considering its decisions the City Council and all appointed officials who hold positions in an advisory capacity to the City Council shall consider as primary in terms of making recommendations and taking action whether the decision to be made favors and individual or a group to the detriment of the general welfare of the residents of the City as a whole. When making recommendations for action by the City Council, the staff shall discuss how the recommended action impacts the general welfare of the community as compared to the special interest of the individual or group seeking the action from the City Council.

Date Adopted:

May 6, 1997

Kathleen Stecko

Subject: quick extra not about enforcement - short term rentals

Received
7/28/20
Planning Dept.

From: Lynn Norton
Sent: Tuesday, July 28, 2020 9:24 PM
To: Jeffrey D Jennings; John Mazza; Steve Uhring; Chris Marx; Kathleen Stecko; David Weil
Subject: quick extra not about enforcement - short term rentals

Dear Commissioners,

Please make sure that everything is enforceable by comparing each Short term rental requirement to section 17.55.030 "Grounds for Denial and Revocation of Short-term Rental Permit", to make sure that breaking any of the rules results in a citation that ultimately could lead to revocation. (For example, section 17.55.010(A)(9) says that the property must have $500K liability insurance but I don't see anywhere that breaking this rule could lead to a citation or a revocation. I didn't go over everything but I hope you do.)

Lynn Norton

Laurence Stuppy II
[redacted]

Received
7/28/20
Planning Dept.

July 27, 2020

City Council
C/o Patricia Salazar, Senior Administrative Analyst
psalazar@malibucity.org
23825 Stuart Ranch Road
Malibu, CA 90265

RE: Short Term Rental [STR] - 33334 Pacific Coast Highway
Request to have our property "Grandfathered in" from STR

To the honorable Mayor and City Council Members

My grandparents, along with their children, purchased our first lot in 1948. As a child, I remember visiting the first house when it was being built. In 1998, my mother, Mrs. Laurence Stuppy, passed away and we inherited the property. It has consistently been a "multi-family" beach house. Over all these years we have had the house(s) rented both as a short-term or long-term rental. Since 2011, we have consistently paid the city thousands of dollars in Transit Occupancy Taxes [TOT]. We have the beach house as a Limited Liability Company (LLC) for liability protection.

The current proposed ordinance would deny long-time multi-family owners the right to rent their property from time-to-time to cover maintenance, insurance, taxes, fees, etc. Since 1948, I know of no family member as a "Malibu resident" of the property. The LLC manager should be allowed to maintain the permit as the "natural person" (resident). The ordinance is excessively "punitive" and, therefore, could cause **irreputable harm** to our family. We have complied with all municipal codes, even those that pre-exists the City of Malibu.

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

We are requesting that we be "grandfathered-in" and exempt from the short-term ordinance and allowed to rent the property as we have in the past without restrictions to any new ordinances. We contend that the STR Ordinance could have an adverse effect on the beach environment.

As expressed during the City Council meetings on several occasions, I have talked about the problems with the proposed ordinance. I want my comments included as part of this objection. I have also stated that we do comply with most, if not all, of the concerns of the ordinance. The proposed ordinance is excessively "punitive" and therefore "unreasonable", especially if a situation is out of our control. We again request that we be grandfathered-in with a waiver to excessive "citations". Our property is located on a private road. This ordinance denies our reasonable and fair use of our private property.

Sincerely,

_____

Laurence Stuppy II

[redacted]

Date Received 7/28/20 Time 8:00 AM
Planning Commission meeting of 7/29/20
Agenda Item No. 1A
Total No. of Pages 2

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

Kathleen Stecko

Subject: Comments on the Draft STR Rules

Received
7/28/20
Planning Dept.

From: Michael Lustig
Sent: Tuesday, July 28, 2020 9:06 AM
To: Kathleen Stecko
Subject: Comments on the Draft STR Rules

Kathleen: please distribute to Planning Commission and include in the public record for the July 29, 2020 PC Hearing

Gentleman,

Firstly, I would like to thank Planning Director Blue and Assistant City Attorney Trevor Rusin for their had work drafting the "Malibu Rules. "They have done an very good job of interpreting Council's instructions by conforming the Santa Monica HSO to the MCC.

I have a few notes for your consideration at the July 29th hearing.

Firstly, we would like to see the addition of these two common sense provisions:

- Events, parties and other commercial uses are prohibited during guest use of the short term rental. No special even permit or film permit shall be obtained for an even occurring at a dwelling unit during any period of guest occupancy.
- Rental of the Dwelling Unit by the hour or for any period less than one night is prohibited.

And secondly, there should be no un-hosted STRS, the original intent of the "Designated Operator" was for owners of multifamily who did not live on-site to designate a tenant to act as the owner's proxy onsite. And for families who share a house to be able to designate a relative or tenant to live who lives on-site.

As a reminder for two years there was a complete ban on STRs in multifamily. The coalition made a concession to allow one STR in multifamily in buildings of 4 and 5 units, and 2 STRs in buildings of 6 or more. In the confusion of a late night session in October 2019, Council bumped it up to 2 in all multifamily. We would ask you to address this with a recommendation to Council.

Lastly, we would ask that the Planning Commission make recommendation to City Council for the budget to hire and train 2 (two) dedicated compliance officers. In addition we recommend not resuming the Host Compliance contract, in favor of using the compliance software and team from Harmari.com to locate and identify every single STR listing in Malibu prior to the implementation date.

I'm happy to volunteer my time and contacts to help set this in motion.

It's been a very long hard road to this ordinance and it's very close to being the most comprehensive and enforceable set of rules in the US.

Thank you for all your help along the way, I'm happy to answer an questions.

Very best,

Michael Lustig
The Malibu STR Coalition

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

Date Received 7/28/20 Time 9:30 AM
Planning Commission meeting of 7/29/20
Agenda Item No. 1A
Total No. of Pages 1

Kathleen Stecko

Subject: SRT MALIBU

Received
7/29/20
Planning Dept.

From: marc man
Sent: Wednesday, July 29, 2020 2:47 PM
To: Jeffrey D Jennings; John Mazza; Chris Marx; Steve Uhring; Kathleen Stecko
Subject: SRT MALIBU

Malibu City Commissioners,

I have lived on Malibu Road for the last 9 years. I first moved to Malibu in 2011 and rented an apartment on Malibu Road for 5.5 years. After renting an apartment for 5 years I purchased a 4 unit multi-family building on Malibu Road and moved into one of the units. I currently live in one of the units as my primary residence, I rent out 1 unit to a local Malibu business owner on a long term lease, I also rent 2 units as short term rentals.

I have rented my units for the long term and short term for the last 3 years. I would like to share with you some information about the rental market in Malibu. When I list my units on the MLS for long term rentals, they sit for almost 6 months. The majority of the applicants do not qualify or have horrible credit. Once you do find someone near the summer time, the renter always asks for just a summer rental or 6 month lease. I have researched the rentals on Malibu Road and every 2 bed 2 bath or great has sat for at least 180 days. All the full-time tenants aside from my 1 bed 1 bath are eventually rented to people as their 2nd or 3rd home. They come out to Malibu on the weekends and do very little for the Malibu economy. I even had to not renew a lease because I caught my tenant subletting without permission and putting his unit on Airbnb when he wasn't using the space. I have done short term rentals for 3 years with no complaints, no issues with large gatherings or parties, and run a very tight ship. Putting unnecessary restrictions on my ability to rent will greatly affect my ability to operate as a landlord. Im sure one can say that I should lower my rental prices to accommodate more long term rentals. Will you consider waiving my property taxes or forfeiting Malibu's share of my property taxes?

Putting restrictions on multi-family buildings to only rent 2 units will do nothing for the city and hurt the landlord. Malibu long term rentals are used as 2nd and 3rd homes and those renters do not help anyone. If a landlord like myself takes a loss in revenue we will not have as much profit to put back into our buildings. Right now the short term rental buildings are best looking multi-family buildings in Malibu. This is because our repeat business is based upon reviews on various SRT sites. We have lots of costs to consider to keep the buildings looking great. The City of Malibu even charges more money to certify the septic tanks for Multi-family buildings. I purchased my building in 2015 with the intent to offset the high cost with SRT rentals.

My suggestion is to allow Multi-Family owners who use the space as their primary residence or have no violations for SRT related violations, should be allowed to rent out more than 2 units at their multi-family building as long as 1 unit is their primary residence. An onsite manager is not required if there are no violations.

I read that you want to reduce the amount of STR rental apartments because it takes up low income rental stock. Oceanfront rentals are NOT low income rental stock in any place in America. Perhaps the Malibu Commissioners should approach developers to build low income apartments in Malibu. It should not be the burden of the landlords to take on the Citys problem of no low income rentals by artificially killing STR's.

Marc Man

Date Received 7/29/20 Time 3:00 PM
Planning Commission meeting of 7/29/20
Agenda Item No. 1A
Total No. of Pages 1

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

Received
7/27/20
Planning Dept.

Allen Matkins

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law
865 South Figueroa Street, Suite 2800 | Los Angeles, CA 90017-2543
Telephone: 213.622.5555 | Facsimile: 213.620.8816
www.allenmatkins.com

Patrick A. Perry
E-mail: pperry@allenmatkins.com
Direct Dial: 213.955.5504 File Number: 390407-00001/LA1214474.02

Via Electronic Mail

July 27, 2020

Chair Jeffrey Jennings
Vice Chair John Mazza
Commissioner Chris Marx
Commissioner Steve Uhring
Commissioner David Weil
City of Malibu
Planning Commission
23825 Stuart Ranch Road
Malibu, California 90265

Re: Local Coastal Program Amendment No. 19-003 and Zoning Text Amendment No. 19-005 Regulating Short Term Rentals

Dear Chair Jennings and Members of the Planning Commission:

This firm represents the owners of multiple properties located seaward of Pacific Coast Highway which are currently developed with multi-family residential structures that are currently rented to the public on a short term basis for periods of less than 30 days, and for which the owners pay transient occupancy taxes to the City in connection with such rentals. Our firm has been retained to address, and oppose if necessary, the proposed ordinance to amend the Malibu Municipal Code ("MMC") and Local Coastal Program ("LCP") to regulate short term rentals at the meeting scheduled for July 29, 2020. For the reasons set forth below, we respectfully request that you consider modifying the ordinance and amendment to exclude properties currently developed with multi-family residential structures located seaward of Pacific Coast Highway. We further request that you delay any action regarding the proposed ordinance and amendment until after the end of the current state of emergency due to the COVID-19 pandemic in order to allow those who are impacted to have a meaningful opportunity to engage in the discussion of an issue of this magnitude. Due to current requirements for isolation and social distancing, many people are unable to focus on an issue of this importance or lack the technological ability to participate in virtual meetings. Rushing the proposed ordinance and LCP amendment through during this crisis is unfair to members of the public who enjoy the availability of beach front short term rentals in Malibu and who would otherwise be available to voice their opposition.

As currently drafted, the LCP is proposed to be amended to provide that short term rental use is permitted up to a maximum of two units per parcel on properties designated MF, Multi-family Residential, which includes duplexes, condominiums, stock cooperatives, and apartments. The MMC is proposed to be amended to provide that owners of entire multi-family residential buildings containing three or more dwelling units on properties located in the MF zone may obtain a Multi-Family Short Term Rental Permit for up to two units in the building as long as all other units are rented for a period of one year or more. The two amendments are therefore inconsistent as to whether residential units on properties developed with two units may be rented on a short term basis. The proposed amendment to the MMC should accordingly be modified to provide that owners of entire multi-family residential buildings containing two or more dwelling units may obtain a Multi-Family Short Term Rental Permit. The amendments should also provide that properties not located in the MF but which are developed with legal nonconforming multi-family residential uses should also be permitted to obtain permits to rent existing residential units on a short term basis.

To comply with the Coastal Act, and the requirement to preserve and maintain visitor serving uses within the Coastal Zone, there should be no restriction on the number of units that may be rented on a short term basis on beachfront properties that are currently developed with multi-family residential buildings. Rental of beach front dwellings, guest houses, and multi-family units on a short term basis has been occurring in Malibu and other beachfront communities for years without negative impacts. These properties are located in proximity to other multi-family residential properties or to commercial properties. The rental of units on such properties on a short term basis will therefore not result in the types of noise and traffic issues associated with the short term rental of properties located in proximity to predominantly single family residential neighborhoods elsewhere in the City. Nor will allowing the short term rental of residential units on beachfront properties detract from the City's available lower cost housing stock because units located on beachfront properties invariably rent for considerably higher rates than elsewhere in the City and clearly are not even close to being able to be considered affordable to lower or moderate income households.

Short-term rental of these beachfront multi-family units is, however, far more affordable than the limited number of beachfront hotel rooms in Malibu. Multi-family units are also more desirable to much of the general public, not only because they are more affordable than hotel accommodations, but because they have separate rooms and provide full kitchens with full size appliances giving families the ability to prepare family meals and care for smaller children and seniors at a far more affordable rate than room service. The only ocean front hotel room that comes close to providing the amenities offered in a short term multi-family rental unit on the beach in Malibu would be a hotel suite, of which there are only a handful, and the cost of which is $1,000 to over $3,000 a night--and even they do not have full kitchens.

Short term rental of units on beachfront lots also contributes to the City's revenue stream through transient occupancy taxes which the City desperately needs, especially at a time when the City is incurring additional expenses in connection with rebuilding following the Woolsey Fire and efforts to combat the spread of COVID-19.

Your careful attention to this matter is greatly appreciated. Please contact me with any questions or if I can provide additional information with regard to these issues.

Very truly yours,



Patrick A. Perry

PAP

cc: Ms. Reva Feldman
Ms. Elizabeth Shavelson
Ms. Bonnie Blue

Kathleen Stecko

Subject: FW: short term rentals.

Received
7/29/20
Planning Dept.

From: Richard Johnson
Sent: Wednesday, July 29, 2020 4:35 PM
To: Planning Commission <planningcommission@malibucity.org>
Subject: short term rentals.

Having a host on the property when it is rented is not acceptable. People who rent a gated, fenced, 3 acre estate, are not planning on sharing it with the owner. Owners like us have years of renting the property and working with all neighbors to keep the character of the neighborhood intact. When a neighbor complained about a wedding in the home we promptly cancelled all weddings. We limited the size of any group (family reunions or wedding parties) to no more than 30 people on the property and any one time.

1) We pay thousands annually in transient occupancy tax.
2) We employ gardeners, maids, and maintenance people
3) We maintain the home to the highest standards
4) We do not use street parking

With our budget constraints, why would you chase away millions in T.O.T.

Why can people rent in multi family dwellings without a host.

Rick Johnson

Kathleen Stecko

Subject: Local Coastal Program Amendment No. 19-003 and Zoning Text Amendment No. 19-005
Attachments: 00033312.PDF

Received
7/29/20
Planning Dept.

From: Cameron Hardy [mailto:chardy@gaineslaw.com]
Sent: Monday, July 27, 2020 3:25 PM
To: Kathleen Stecko
Cc: Trevor Rusin; Justine Kendall
Subject: Local Coastal Program Amendment No. 19-003 and Zoning Text Amendment No. 19-005

Attached please find correspondence regarding the above referenced matter for your review and files. Should you have any questions or comments, please do not hesitate to contact our office. Thank you.

Cameron Hardy
Assistant to Rebecca A. Thompson

Gaines & Stacey LLP
16633 Ventura Blvd., Suite 1220
Encino, CA 91436
Telephone - 818-933-0200 ext. 1214
Fax - 818-933-0222

chardy@gaineslaw.com | website

Due to the current situation with Covid-19, we and working remotely and therefore ask that you please provide all correspondence by email including but not limited to letters, pleadings and documents. Thank you for your cooperation.

This message and any attached documents are intended only for the use of the individual or entity to which it is addressed, and may contain information that is PRIVILEGED, CONFIDENTIAL and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone or return e-mail, and return the original to us without making a copy. Thank you.

Date Received 7/27/20 Time 3:30 PM
Planning Commission meeting of 7/29/20
Agenda Item No. 1A
Total No. of Pages 3

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

July 27, 2020

ORIGINAL BY U.S. MAIL

VIA EMAIL kstecko@malibucity.org

Jeffrey Jennings, Chair
Malibu City Planning Commission
23825 Stuart Ranch Road
Malibu, CA 90265

Re: **Local Coastal Program Amendment No. 19-003 and Zoning Text Amendment No. 19-005 - An Amendment to the Local Coastal Program and Malibu Municipal Code Regulating Short-Term Rentals of Residential Property, Including Requiring an Onsite Host**

Dear Chair Jennings and Honorable Commissioners:

This law office represents Sue Peck and Sandpiper 22860 LLC, owner of a multi-family residential building in Malibu. For over ten years, our client has offered a small percentage of the units for short term stays. **As discussed in more detail below, we support the inclusion of short term rentals of multi-family units within the proposed Local Coastal Program Amendment and Zoning Text Amendment**.

The proposed amendments to the Local Coastal Program and Title 17 (Zoning Ordinance) are intended to regulate short-term residential rental properties to address concerns regarding parking, noise, adherence to safety requirements and maintaining the housing stock in the City of Malibu. Our client has accomplished these goals through its short-term rental program and supports the goals of the proposed regulation of short-term rentals.

Including a short-term rental component benefits long-term tenants too. The rental fees from the short-term stays help pay for building maintenance and other expenses that would otherwise result in higher rents for long-term tenants.

With the low availability of hotel rooms, especially for families, short-term rentals clearly meet the visitor-serving use endorsed by the California Coastal Commission. Additionally, since these rentals are more economical than hotel rooms, families which would otherwise not be able to vacation in Malibu have an affordable option for a short-term visit.

We believe that short-terms rentals in multi-family buildings would be an asset to the City and fully support the LCP and Zoning Code amendments before the Commission. Our client has successfully paired long-term and short-term rentals in her multi-family building year-round and we urge the City to adopt these amendments which recognize the benefits of a limited number of multi-family short-term rentals.

Again, we appreciate your time and thank you for your consideration.

Sincerely,

GAINES & STACEY LLP

Rebecca A. Thompson

By
REBECCA A. THOMPSON

cc: Trevor Rusin, Assistant City Attorney (Via Email)
Justine Kendall, Associate Planner (Via Email)

Kathleen Stecko

Subject: Short Term Rental meeting

Received
7/28/20
Planning Dept.

From: Sharone Karsh
Sent: Tuesday, July 28, 2020 5:26 PM
To: Jeffrey D Jennings
Cc: John Mazza; Chris Marx; Steve Uhring; David Weil; Kathy Blockton; Kathleen Stecko
Subject: Short Term Rental meeting

Jeffrey Jennings - Chair: jdjenningslaw@gmail.com
John Mazza - Vice-Chair: res02igz@gte.net
Chris Marx: chrismalibupc@gmail.com
Steve Uhring: steveuhring@yahoo.com
David Weil: davidweil@gmx.com
Kathleen Stecko - Administrative Assistant: KStecko@malibucity.org

City of Malibu Commissioners,

I have been a resident of Malibu Road for over 30 years. My husband, Steve Karsh and I, lived in the same home until the day he died in 2016. I now live alone in the home and I rent my property out on short term rental sites. I do this to supplement my income and to keep myself busy. It is very difficult to find a job in Malibu that pays a decent wage part time. Managing my short term rental helps me to continue living in Malibu and not moving to a cheaper city. I would not be able to afford to stay in Malibu if the proposed short term rental ordinance goes into affect. The upkeep and maintenance to a beach house is very expensive and I have to pay for all of the repairs myself.

I agree that there are some bad hosts in Malibu for short term rentals, but the proposed ordinance is too strict. It will greatly reduce my income if I have to be on site in my own home while it is rented. I only have a 2 bedroom 2 bath home and it will rent for extremely less money if only 1 bedroom is available. This is also a health hazard if I have to be onsite sharing my space during Covid 19.

My recommendation is to make a fair ordinance which does not require an onsite manager unless you have a series of violations. I have been doing short term rentals for over 5 years with no complaints, no parties, no issues whatsoever. I was one of the first short term rental houses on Malibu Road and I have developed my own system that weeds out the bad tenants. I carefully screen who stays in my home, watch the amount of guests on the reservation, and check their short term rental feedback. My home hosts dozens of families every year and they have fond memories of Malibu. This would not be possible if the new ordinance goes into affect. My short term rentals produces a lot of income for the city in the form of TOT taxes. I cause no problems for the city and short term rentals is how I am able to stay in my beach home my husband left for me. There are many other issues on Malibu Road that you guys should be fixing besides items that bring in money. The homeless situation is out of control along PCH with the RV's. Are your plans to reduce short term rentals, but allow anyone to stay for free with their RV's on pch. What TOT taxes do those RV's pay? Which Malibu businesses do the RV people support? My guests who stay all go out to dinner every night, shop at all the local Malibu stores, and bring value to the Malibu economy.

Please consider only requiring an onsite manager to those bad apples who do not follow the rules. Do not take away my ability to make a living and dont make me sell my beach house.

Thank you for your consideration,

Sharone Karsh

Kathleen Stecko

Subject: FW: CITY LETTER

Received
7/28/20
Planning Dept.

Jeffrey Jennings - Chair: jdjenningslaw@gmail.com
John Mazza - Vice-Chair: res02igz@gte.net
Chris Marx: chrismalibupc@gmail.com
Steve Uhring: steveuhring@yahoo.com
David Weil: davidweil@gmx.com
Kathleen Stecko - Administrative Assistant: KStecko@malibucity.org

City Commissioners,

My name is Waverly Lassila and I have been a resident of Malibu since the late 1990s. I have always lived in the same building on Malibu Road and call it home. Unfortunately, I was diagnosed with Multiple sclerosis aka "MS" and it has greatly limited my ability to work. About 10 years ago I decided to become an Airbnb Host in order to stay busy and make an honest living. Being an Airbnb host allows me to work part time and still work my own hours. It keeps me going and I love hosting people from all over the world. I have over 500 positive reviews and I welcome people to Malibu and bring so much to this city with my property other than TOT taxes. I show them where to buy groceries, introduce them to the mom and pop Malibu stores, recommend local restaurants, or help their kids get set up to use the beach.

If you change the current Airbnb rules, it will greatly affect my lifestyle and ability to work. I count on my Airbnb income to support myself, my medicines, and medical procedures. I have developed a great plan to host guests. I have had no noise complaints, parties, or neighborly issues with my guests. I take pride in my hostings and there is no need to post heavy restrictions on good hosts. I live on site and make sure no rules are broken. During the fires, I opened my doors to various Malibu residents until their houses got repaired, during COVID 19 I took extra precautions and made my places available for Staycations. Short Term rentals is a great thing for Malibu and more importantly a great job for a person with MS. I also hire local workers to clean my units and maintain them. All of these jobs will go away if you introduce the proposed ordinance that restricts my ability to rent my 2 units. Please allow me to rent out the 2 units in my duplex with me as the onsite host. Do you really want to be responsible for eliminating more Malibu jobs and hurting the Malibu economy?

Thank you.

Waverly Lassila

Marc Maniscalco

Kathleen Stecko

Subject: Are we sure we need to take our STR ordinance to Coastal?

Received
7/27/20
Planning Dept.

From: **Steve Uhring** <steve.uhring@gmail.com>
Date: Fri, Jul 24, 2020 at 10:43 AM
Subject: Fwd: Are we sure we need to take our STR ordinance to Coastal?
To: Trevor Rusin <Trevor.Rusin@bbklaw.com>, Bonnie Blue <bblue@malibucity.org>

Are there reasons why Malibu's STR ordinance would be treated differently by the courts than Santa Monica was in the decision below?

steveU

On February 19, 2019, in City of Santa Monica v. Diana Hayek, the Appellate Division of the Superior Court dismissed Defendant Hayek's appeal and affirmed eleven counts of short-term rental violations against Hayek for
illegally advertising and operating a short-term vacation rental business in the City of Santa Monica. The trial court decision in this case made clear that the City's Home-Sharing Ordinance is a valid exercise of the City's
police powers and not preempted by the California Coastal Act. The trial court further held that the Home-Sharing Ordinance "does not require a coastal development permit and the [Coastal] Commission's authority does not extent to approving or rejecting general laws adopted by cities."

Date Received 7/27/20 Time 8:00 AM
Planning Commission meeting of 7/29/20
Agenda Item No. 1A
Total No. of Pages 1

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File



SHORT-TERM RENTAL
PROPOSED LCPA and ZTA

Planning Commission Public Hearing
July 29, 2020



The Draft LCPA and ZTA are proposed to regulate the short-term rental of residential property similar to the Santa Monica Home-Sharing Ordinance with modifications to address unique Malibu conditions

Malibu and Santa Monica STR Ordinances

Key Differences

- Hosted STR vs. Home-Share
- Owner or Designated Operator as Host
- Proof of Primary Residency
- Multifamily Rentals
- Eligible Permit Applicants
- Neighborhood Notifications
- Parking



City of Malibu

Short-Term Rental Ordinance

Two Permit Types

Hosted STR

- SFR Owner's Primary Residence
- Owner or Designated Operator lives on site
- Physically on site between 8pm and 6 am

Multifamily STR

- MF Building Owner
- Not required to live on site
- Rent up to two units as STRs



City of Malibu

Proposed Zoning Text Amendment

STR Permit General Provisions

- Maintain an active STR Permit
- Provide 24/7 Property Contact
- Maximum occupancy limits
- Park all vehicles on site
- Maintain OWTS Operating Permit
- Notice of STR sent to neighbors
- Requirements for STR ads
- Grounds for denial or revocation



Hosting Platform Liability

Based on Santa Monica’s previously upheld provisions

- Collect and remit Transient Occupancy Tax
- Disclose STR information to the City on a regular basis
- Prohibited from completing any booking transaction for a STR that is not on the City’s approved STR registry



Proposed Local Coastal Program Amendment

Summary of LCPA

The LCPA serves to memorialize the permitted short-term rental uses specified in the ZTA. The details of the STR permitting regulations are not included to allow for them to be adjusted from time to time as needed.



Short-Term Rental LCPA and ZTA

Questions?



City of Malibu

CCC Staff Preliminary Comments

EXHIBIT A

LOCAL COASTAL PROGRAM AMENDMENT

A. Land Use Plan (LUP) Chapter 5 (New Development), Section C (Land Use Policies), Subsection 2 (Land Use Designations) is hereby amended to read as follows:

RURAL RESIDENTIAL (RR): The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City. The following maximum residential density standards shall apply:

RR1	One dwelling unit per acre
RR2	One dwelling unit per 2 acres
RR5	One dwelling unit per 5 acres
RR10	One dwelling units per 10 acres
RR20	One dwelling unit per 20 acres
RR40	One dwelling unit per 40 acres

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MOBILE HOME RESIDENTIAL (MHR): The MHR designation is intended to accommodate existing mobile home parks and associated facilities. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MULTI-FAMILY RESIDENTIAL (MF): The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted. Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City, up to a maximum of two dwelling units per parcel.



City of Malibu

CCC Staff Preliminary Comments

B. LUP Policy 5.20 is amended to read as follows:

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

C. LUP Policy 2.34 is amended to read as follows:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

D. Local Implementation Plan (LIP) Section 2.1 is amended by adding the following definitions, inserted in alphabetical order, or replacing where there is an existing definition:

DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is authorized by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and

C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.



City of Malibu

CCC Staff Preliminary Comments

GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling ~~unless permitted pursuant to a valid short-term rental permit issued by the City~~. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

E. LIP Section 3.3(Q) Planned Development (PD) Zone is amended to read as follows:

Q. Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development, consistent with the PD Land Use Designation in chapter 5 (Section C.2) of the Land Use Plan consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcel Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018, known as Malibu Coast Estate, and formerly known as the "Crummer Trust" parcel.

Commented [CCC1]: It's not clear if the proposed language is meant to exempt the requirement for containing no kitchens or to not be rented or otherwise used as a separate dwelling.

We recommend these revisions to clarify the intent of the proposed amendment which is to allow guest houses to be used as STRs pursuant to a STR permit.



CCC Staff Preliminary Comments

CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility
STR	Use requires valid short-term rental permit approved by the City
·	Not permitted (Prohibited)

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Single-family residential	P	P	P	P	·	·	·	·	·	·	·	·	·	A	·	·
Manufactured homes	P	P	P	P	·	·	·	·	·	·	·	·	·	·	·	·
Multiple-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments)	·	·	CUP	CUP	·	·	·	·	·	·	·	·	·	·	·	·
Second units	A[1]	A[1]	A[1]	A[1]	·	·	·	·	·	·	·	·	·	·	·	·
Mobile home parks	·	·	·	·	P	·	·	·	·	·	·	·	·	·	·	·
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	·	·	·	·	CUP	·	·	·	·	·	·	·	·	·	·	·
Mobile home as residence during construction	P	P	P	MCUP	·	·	·	·	·	·	·	·	·	·	·	·
Accessory uses (guest units, garages, barns, pool houses,	A[1]	A[1]	A[1]	A[1]	·	·	·	·	·	·	·	·	·	·	·	·



CCC Staff Preliminary Comments

pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)																
Residential care facilities (serving 6 or fewer persons)	P	P	P	·	·	·	·	·	·	·	·	·	·	·	·	·
Small family day care (serving 6 or fewer persons)	A	A	A	·	·	·	·	·	·	·	·	·	·	·	·	·
USE	**RR**	**SF**	**MF**	**MFBF**	**MHR**	**CR**	**BPO**	**CN**	**CC**	**CV-1**	**CV-2**	**CG**	**OS**	**I**	**PRF**	**RVP**
RESIDENTIAL (continued)																
Large family day care (serving 7 to 12 persons)	LFDC	LFDC	LFDC	·	·	·	·	·	·	·	·	·	·	·	·	·
Home occupations	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	·	·	·	·	·	·	·	·	·	·	·	·
Short-term rental	STR[21]	STR[21]	STR[22]	STR[22]	STR[21]	·	·	·	·	·	·	·	·	·	·	·
…																

Notes:

1. Subject to Residential Development Standards (Section 3.6).
2. Subject to Home Occupations Standards [(Section 3.6(O)].
3. Use Prohibited in Environmentally Sensitive Habitat Areas.
4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use. This floor area requirement shall not apply to the Civic Center Wastewater Treatment Facility.
5. CUP for veterinary hospitals.
6. Maximum interior occupancy of 125 persons.
7. If exceeding interior occupancy of 125 persons.
8. By hand only.
9. Use permitted only if available to general public.
10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
11. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Sections 4.6.2 and 6.5(G).
12. Limited to public agency use only (not for private use).
13. Accessory uses when part of an educational or non-profit (non-commercial) use. However, residential care facilities for the elderly are limited to operation by a non-profit only.
14. CUP for facilities within a side or rear yard when adjacent to a residentially-zoned parcel.
15. Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including, but not limited to, injection wells, generators, and pump stations.



CCC Staff Preliminary Comments

16. This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with the existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.
17. Transitional and supportive housing is permitted in the same manner as one single family residence and is subject to all the restrictions that apply to single family residential uses.
18. Transitional and supportive housing is permitted in the same manner as a multi-family residential use and is subject to all the restrictions that apply to multi-family residential uses.
19. Multi-family development associated with an affordable housing development project is permitted by right.
20. Multi-family development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3.4.5.
21. Hosted short-term rental only in RR, SF and MHR zones
22. Maximum of two dwelling units per parcel for MF and MFBF zones



MINUTES
MALIBU PLANNING COMMISSION
SPECIAL MEETING
JULY 29, 2020
TELECONFERENCED – VARIOUS LOCATIONS
6:30 P.M.

The following meeting was held pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

CALL TO ORDER

Chair Jennings called the meeting to order at 6:30 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Chair Jeffrey Jennings; Vice Chair John Mazza; and Commissioners Chris Marx, Steve Uhring, and David Weil

ALSO PRESENT: Elizabeth Shavelson, Assistant to the City Manager; Trevor Rusin, Assistant City Attorney; Bonnie Blue, Planning Director; and Kathleen Stecko, Administrative Assistant

REPORT ON POSTING OF AGENDA

Administrative Assistant Stecko reported that the agenda for the meeting was properly posted on July 16, 2020.

APPROVAL OF AGENDA

MOTION Commissioner Marx moved and Vice Chair Mazza seconded a motion to approve the agenda. The question was called and the motion carried unanimously.

ITEM 1 NEW PUBLIC HEARINGS

A. Local Coastal Program Amendment No. 19-003 and Zoning Text Amendment No. 19-005 - An Amendment to the Local Coastal Program and Malibu Municipal Code Regulating Short-Term Rentals of Residential Property, Including Requiring an Onsite Host
Applicant: City of Malibu
Location: Citywide
Staff Contact: Planning Director Blue, 456-2489, ext. 258
Recommended Action: Adopt Planning Commission Resolution No. 20-35 determining the amendments to be exempt from the California Environmental Quality Act and recommending that the City Council adopt Local Coastal Program

Amendment No. 19-003 and Zoning Text Amendment No. 19-005 regulating the rental of residential units for 30 days or less (Short-term Rentals) including but not limited to requiring the presence of an onsite host during certain short-term rentals, and other restrictions, and clarifying permitted uses related to short-term rental (Citywide).

Assistant to the City Manager Shavelson presented the staff report.

The Commission directed questions to staff.

As there were no further questions for staff, Chair Jennings opened the public comment portion of the public hearing.

Speakers: Dennis Seider, Nelly Joy Reeves, Kent Roberts, Graeme Clifford, Mary Jones, Dean Wenner, Elchin Sadigov, Jo Drummond, Colin Drummond, Lynn Norton, Norman Haynie, Kraig Hill, Sean Xie, Marc Maniscalco, Don Tollefson, Nicholas Hale, John Stiegler, Terry Lucoff, Beatrix Zilinskas, Sharone Karsh, Jeff Bossen, Kevin Hoiseth, Andy Gombiner, Kenneth Ehrlich, and Rob Bauer.

As there were no other speakers present, Chair Jennings closed the public comment portion of the public hearing and returned the matter to the table for discussion.

RECESS At 8:45 p.m., Chair Jennings recessed the meeting. The meeting reconvened at 8:55 p.m. with all Commissioners present.

The Commission directed questions to staff.

MOTION Chair Jennings moved and Vice Chair Mazza seconded a motion to adopt Planning Commission Resolution No. 20-35, as amended: 1) determining the amendments to be exempt from the California Environmental Quality Act and recommending that the City Council adopt Zoning Text Amendment No. 19-005 regulating the rental of residential units for 30 days or less (Short-term Rentals) including but not limited to requiring the presence of an onsite host during certain short-term rentals, the interlineated changes and other restrictions and changes to not allow short-term rental of guest houses, to limit multi-family short-term rental permits to a maximum of 40 percent of the units or no more than two, whichever is less, stating the designated operator "is required" to take certain actions rather than "is authorized," lowering the number of citations that can trigger permit revocation or denial, and increasing the fines for violation of the ordinance (Citywide); 2) recommend City Council modify Policy 43 pertaining to short-term rental complaints; 3) incorporate a provision that would provide the short-term rental permit would not authorize a use that would require some other type of permit or license currently required under the Malibu Municipal Code; and 4) recommend City Council not adopt Local Coastal Program Amendment No. 19-003 and not make any changes to the permitted uses in the Malibu Municipal Code.

The Commission discussed the motion.

The question was called and the motion carried unanimously.

ADJOURNMENT

MOTION At 11:18 p.m., Vice Chair Mazza moved and Commissioner Weil seconded a motion to adjourn the meeting. The question was called and the motion carried unanimously.

Approved and adopted by the Planning Commission of the City of Malibu on October 5, 2020.

JOHN MAZZA, Chair

ATTEST:

KATHLEEN STECKO, Administrative Assistant

This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Order (revised September 2, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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 citycouncil@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 by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Malibu City Council
Regular Meeting Agenda
(to be held during COVID-19 emergency)

Monday, September 14, 2020

6:30 P.M. – REGULAR CITY COUNCIL MEETING

Various Teleconference Locations

YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT

MALIBUCITY.ORG/VIDEO

Six-thirty p.m. **Regular Session**

Call to Order - Mayor

Roll Call - Recording Secretary

Pledge of Allegiance

Approval of Agenda

Report on Posting of Agenda – September 4, 2020

1. Ceremonial/Presentations

None.

2. Written and Oral Communications from the Public

A. Communications from the Public concerning matters which are not on the agenda but for which the City Council has subject matter jurisdiction. City Council may not act on these matters except to refer the matters to staff or schedule the matters for a future agenda.

B. Commission / Committee / City Manager Updates

C. City Council Subcommittee reports / Mayor and Councilmember meeting attendance, reports and inquiries

3. Consent Calendar

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 469

Recommended Action: Conduct second reading, unless waived, and adopt Ordinance No. 469 determining the project is categorically exempt from the California Environmental Quality Act (CEQA) and amending Section 10.19.020 of Chapter 10.19 (Overnight Parking) of the Malibu Municipal Code to create staggered overnight parking restrictions between 12:00 a.m. and 2:00 a.m. and between 2:00 a.m. and 4:00 a.m. daily in the Corral Beach and Zuma Beach areas of Pacific Coast Highway.

Staff Contact: City Clerk Glaser, 456-2489, ext. 228

B. New Items

1. Waive Further Reading

Recommended Action: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

Staff Contact: City Attorney Hogin, 456-2489, ext. 228

2. Approve Warrants

Recommended Action: Allow and approve warrant demand 61218-61338 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 666 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of $1,279,329.30. City of Malibu payroll check number 5119-5121 and ACH deposits were issued in the amount of $215,603.19.

Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

3. Approval of Minutes

Recommended Action: Approve the minutes for the August 10, 2020 Malibu City Council Regular meeting.

Staff Contact: City Clerk Glaser, 456-2489, ext. 228

4. Jake Kuredjian Citizenship Award Nomination

Recommended Action: At the recommendation of the Parks and Recreation Commission, approve the nomination of John Bell and Ellen Reich as the recipients of the 2020 Jake Kuredjian Citizenship Award.

Staff Contact: Community Services Director Bobbett, 456-2489, ext. 225

5. Amendment to Professional Services Agreement with Kimley-Horn and Associates, Inc.

Recommended Action: Authorize the City Manager to execute Amendment No. 3 to the Professional Services Agreement with Kimley-Horn and Associates, Inc. in the amount of $245,000 for additional engineering plan check services to provide Woolsey Fire Rebuild Public Works Services.

Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

6. Acceptance of the 2020 Annual Street Maintenance Project

Recommended Action: 1) Accept the work performed by Toro Enterprises, Inc. for the 2020 Street Maintenance Project, Specification No. 2078 as complete; and 2) Authorize the Public Works Director to submit for recordation a Notice of Completion.

Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

7. Award Storm Drain Trash Screens Installation Project

Recommended Action: 1) Authorize the City Manager to execute a construction contract with United Storm Water, Inc. in the amount $17,863.72 for the Storm Drain Trash Screens Installation Project, Specification No. 2077; and 2) Authorize the Public Works Director to approve potential change orders up to 15% of Agreement contract.

Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

8. Award Malibu Bluffs Park Workout Station Project

Recommended Action: 1) Authorize the City Manager to execute a construction contract with Civic Construction Associates in the amount $40,001 for the Malibu Bluffs Park Workout Station Project, Specification No. 2088; and 2) Authorize the Public Works Director to approve potential change orders up to 15% of Agreement contract.

Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

9. Agreements for the Malibu Inn Motel Project Initial Study

Recommended Action: 1) Authorize the City Manager to execute an Agreement with Wood Environmental and Infrastructure Solutions, Inc. for the preparation of an initial study for the proposed Malibu Inn Motel Project located immediately east of the Malibu Inn at 22959 Pacific Coast Highway; and 2) Authorize the City Manager to execute a Developer Reimbursement Agreement with Surfrider Plaza, LLC.

Staff Contact: Planning Director Blue, 456-2489, ext. 258

10. Professional Services Agreement with JHD Planning, LLC

Recommended Action: Authorize the City Manager to execute a professional services agreement with JHD Planning, LLC in the amount of $94,990 for updating the 2021-2029 Housing and Safety and Health General Plan Elements as needed to address state requirements.

Staff Contact: Planning Director Blue, 456-2489, ext. 258

11. Certificate of Deposit

Recommended Action: Adopt Resolution No. 20-50 approving the purchase of a Certificate of Deposit with Celtic Bank for a term of eight years.

Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

12. Agreement for the Sea View Hotel Project Initial Study

Recommended Action: Authorize the City Manager to execute a Developer Reimbursement Agreement with Grey Granite, LLC, Las Tunas Beach, LLC, and Sea View Terrace, LLC for preparation of an initial study for the proposed Sea View Hotel Project at 22729 and 22741 Pacific Coast Highway.

Staff Contact: Planning Director Blue, 456-2489, ext. 258

4. Ordinances and Public Hearings

A. Short-Term Rental (STR) Regulations (Continued from August 10, 2020)

Recommended Action: 1) Re-open Public Hearing on short-term rental regulations including Zoning Text Amendment (ZTA) No. 17-002 (Ordinance No. 468) from August 10, 2020, and consider the Hosted Ordinance (Ordinance No. 472 and Resolution No. 20-51) and revised version of ZTA No. 17-002, the Enforcement Ordinance (Ordinance No. 468, as revised); 2) After the City Attorney reads the title, introduce on first reading Ordinance No. 472 amending Title 17 (Zoning) of the Malibu Municipal Code (MMC) and adding Chapter 17.55 (Short-term Rental Ordinance) and amending portions of the Local Coastal Program (LCP) Local Implementation Plan to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act (CEQA); 3) After the City Attorney reads the title, introduce on first reading Ordinance No. 468, as revised, amending MMC Title 17 to establish provisions to regulate short-term rental of property citywide and finding the action exempt from CEQA; 4) Direct staff to schedule second reading and adoption of Ordinance Nos. 472 and 468 as revised for the September 29, 2020 Adjourned Regular City Council Meeting; and 5) Adopt Resolution No. 20-51 amending LCP Land Use Plan Chapter 5 to address short-term rental use in residential zones and finding the action exempt from CEQA.

Staff Contact: Planning Director Blue, 456-2489, ext. 258

B. Face Covering Ordinance

Recommended Action: Adopt Ordinance No. 470U requiring all individuals to wear a face covering while in public, finding the same exempt from the California Environmental Quality Act and setting forth the facts constituting such urgency; a four-fifths vote of the City Council is required and, if approved, it will take effect immediately.

Staff Contact: Deputy City Attorney Camarena, 456-2489, ext. 228

C. Temporary Waiving of Certain Sign Regulations to Assist Businesses and Other Uses during COVID-19

Recommended Action: Adopt Ordinance No. 471U implementing temporary signage regulations to accommodate business, institutional and other non-residential operations during the period of local emergency relating to COVID-19, finding the same exempt from the California Environmental Quality Act and setting forth the facts constituting such urgency; a four-fifths vote of the City Council is required and, if approved, it will take effect immediately.

Staff Contact: Planning Director Blue, 456-2489, ext. 258

5. Old Business

None.

6. New Business

A. Initiate Zoning Text Amendment Pertaining to Administrative Approval of Extensions for In-kind Disaster Rebuild Projects

Recommended Action: 1) Adopt Resolution No. 20-49 initiating a zoning text amendment to Chapter 17.60.020 (Nonconforming Uses and Structures) of the Malibu Municipal Code to eliminate the requirement for Planning Commission approval and instead allow administrative approval of extension requests by the Planning Director; 2) Direct the Planning Commission to schedule a public hearing regarding the same; 3) Direct staff whether to present the item for comment to the Zoning Ordinance Revision and Code Enforcement Subcommittee; and 4) Provide direction to staff on initiating an amendment to extend the deadlines to apply for in-kind disaster rebuild projects with a Planning Verification.

Staff Contact: Planning Director Blue, 456-2489, ext. 258

7. Council Items

None.

Adjournment

Future Meetings

Tuesday, September 29, 2020	6:30 p.m.	Adjourned Regular City Council Meeting	Location TBD
Monday, October 12, 2020	6:30 p.m.	Regular City Council Meeting	Location TBD
Monday, October 26, 2020	6:30 p.m.	Regular City Council Meeting	Location TBD

Guide to the City Council Proceedings

As a result of the Coronavirus (COVID-19) pandemic, the City is under a state of local emergency, as well as states of emergency that have been declared in the County of Los Angeles, state of California, and a federal emergency declared by the President of the United States. At the direction of the Governor, starting March 19, 2020, the entire state is subject to stay-at-home orders. These measures are imposed to reduce the risk of spreading COVID-19. To comply with these emergency measures, the City Council meeting will be open and public but conducted via teleconference only. This way the public, the staff, and the Council will not be physically in the same place.

The Oral Communication portion of the agenda is for members of the public to present items, which are not listed on the agenda but are under the subject matter jurisdiction of the City Council. No action may be taken under, except to direct staff unless the Council, by a two-thirds vote, determines that there is a need to take immediate action and that need came to the attention of the City after the posting of the agenda. Although no action may be taken, the Council and staff will follow up, at an appropriate time, on those items needing response. Each speaker is limited to three (3) minutes. Members of the public wishing to speak during the meeting must participate through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Mayor and then you must be present in the Zoom conference to be recognized. Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Items in Consent Calendar Section A have already been considered by the Council at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Council. If discussion is desired, an item may be removed from the Consent Calendar for individual consideration. Councilmembers may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from the Consent Calendar will be taken up by the Council following the action on the Consent Calendar. The Council first will take up the items for which public speaker requests have been submitted.

For Public Hearings involving zoning matters the appellant and applicant will be given 15 minutes each to present their position to the City Council, including rebuttal time. All other testimony shall follow the rules as set forth under Oral Communication. In order to speak, individuals must visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Old Business items have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Public comment shall follow the rules as set forth under Oral Communication.

Items in New Business are items, which are appearing for the first time for formal action. Public comment shall follow the rules as set forth under Oral Communication.

City Council Items are items, which individual members of the City Council may bring up for action, to propose future agenda items or to suggest future staff assignments. No new items will be taken-up after 10:30 p.m. without a two-thirds vote of the City Council.

City Council meetings are aired live and replayed on City of Malibu Government Access Channel 3 and are available on demand on the City's website at www.malibucity.org/video. Copies of the staff reports or other written documentation relating to each item of business described above are on file in the office of the City Clerk and available upon request by emailing cityclerk@malibucity.org.

The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Environmental Sustainability Director Yolanda Bundy, (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II].

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. Regular and Adjourned Regular meeting agendas may be amended up to 72 hours in advance of the meeting. Dated this 4th day of September 2020 at 1:00 p.m.



Kelsey Pettijohn, Deputy City Clerk

City Council Meeting
09-14-20
Item 4.A.

Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: September 3, 2020 Meeting date: September 14, 2020

Subject: Short-Term Rental (STR) Regulations (Continued from August 10, 2020)

RECOMMENDED ACTION: 1) Re-open Public Hearing on short-term rental regulations including Zoning Text Amendment (ZTA) No. 17-002 (Ordinance No. 468) from August 10, 2020, and consider the Hosted Ordinance (Ordinance No. 472 and Resolution No. 20-51) and revised version of ZTA No. 17-002, the Enforcement Ordinance (Ordinance No. 468, as revised); 2) After the City Attorney reads the title, introduce on first reading Ordinance No. 472 (Exhibit 1 – Hosted Ordinance) amending Title 17 (Zoning) of the Malibu Municipal Code (MMC) and adding Chapter 17.55 (Short-term Rental Ordinance) and amending portions of the Local Coastal Program (LCP) Local Implementation Plan (LIP) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act (CEQA); 3) After the City Attorney reads the title, introduce on first reading Ordinance No. 468 (Exhibit 2 – Enforcement Ordinance), as revised, amending MMC Title 17 to establish provisions to regulate short-term rental of property citywide and finding the action exempt from CEQA; 4) Direct staff to schedule second reading and adoption of Ordinance Nos. 472 and 468 as revised for the September 29, 2020 Adjourned Regular City Council Meeting; and 5) Adopt Resolution No. 20-51 (Exhibit 3) amending LCP Land Use Plan (LUP) Chapter 5 to address short-term rental use in residential zones and finding the action exempt from CEQA.

PURPOSE: On August 10, 2020, the Council continued to the September 14, 2020 City Council Regular meeting to hear concurrently: 1) Ordinance No. 468 amending Title 17 (Zoning) of the Malibu Municipal Code and adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act; 2) Local Coastal

Program Amendment (LCPA) No. 19-003 and Zoning Text Amendment (ZTA) No. 19-005 regulating the rental of residential units for 30 days or less (Short-term Rentals) including but not limited to requiring the presence of an onsite host during certain short-term rentals, and other restrictions, and clarifying permitted uses related to short-term rental (Citywide); and 3) a revised version of Ordinance No. 468 that removes the primary resident requirement and certain other requirements to focus on providing enforcement tools against nuisance properties while LCPA No. 19-003 is processed.

This item presents (1) a "hosted" short-term rental ordinance and related Local Coastal Program (LCP) amendment and (2) a separate ordinance that provides enforcement tools more immediately to regulate negative and nuisance impacts of short-term rentals; any aspects of this Enforcement Ordinance that conflict with the Hosted Ordinance would be superseded by the Hosted Ordinance once the related LCP Amendment is certified by the California Coastal Commission (CCC).

FISCAL IMPACT: In Fiscal Year 2018-2019 the City collected $2.42 million from Transient Occupancy Tax (TOT) of short-term residential rentals, and in Fiscal Year 2019-2020 the City anticipates it will collect $1.7 million (unaudited). The Adopted Budget for Fiscal Year 2020-2021 anticipates that the City will receive $1.3 million. The impact to this General Fund revenue source from the Hosted Ordinance, Ordinance No. 472, which is the Santa Monica-style ordinance, is expected to be significant, but cannot be determined with certainty at this time. Ordinance No. 468, the Enforcement Ordinance, which is proposed to become effective January 15, 2021, is anticipated to have a less significant impact on TOT revenue.

On June 24, 2019, the Council approved a Professional Services Agreement with Raftelis Financial Consultants (Raftelis) to conduct a financial analysis on the implications of a ban on short-term rentals. On October 28, 2019, the Council was presented with a financial analysis on the implications and potential impacts of a ban on short-term rentals. The analysis, as presented, incorporated the impacts to the City's budget from the Woolsey Fire and subsequent winter storms. Due to the more recent changes in the City's revenue and expenses from the COVID-19 pandemic and its ongoing and unknown impacts, an updated forecast has not yet been completed. As part of their analysis, Raftelis provided the City with a model, which City staff uses to forecast revenue and expenses. Once the Council proceeds with one or both of the proposed ordinances, and more accurate data can be obtained on the actual fiscal impact from the ordinance(s), staff will monitor and forecast any potential negative impacts to revenue and expenses from the ordinances.

It is anticipated that both ordinances will require additional staff resources for the processing of permits and enforcement; however, it is further anticipated that these costs will be offset by fees from permits and fines from enforcement.

Each proposed ordinance will provide for a new permit with an associated fee. Staff will return to Council with a revised Fee Schedule before either ordinance is scheduled to go into effect. All associated budget amendments to revenue and expenses will be presented to Council as part of the mid-year budget process in January 2021.

WORK PLAN: This item was included as item 4d in the Adopted Work Plan for Fiscal Year 2020-2021.

DISCUSSION: For several years, the City has conducted legislative, legal, and financial review of potential short-term rental regulations. Several options have been discussed. On December 3, 2019, the Council directed staff to prepare an ordinance that mirrors the City of Santa Monica's "hosted" short-term rental (STR) regulations in which an onsite "host" must be present on the property during short-term rentals. The Council initiated the necessary Local Coastal Program Amendment (LCPA) and ZTA at that time. On July 29, 2020, the Planning Commission considered LCPA No. 19-003 and ZTA No. 19-005 for the Hosted Ordinance and made recommendations for the Council's consideration (Exhibit 4 - Planning Commission Resolution No. 20-35), which is discussed in more detail later in this report.

On June 22, 2020, the Council discussed ongoing problems with enforcement against problem short-term rental properties. In order to put more tools in place while the Hosted Ordinance was in process, the Council asked to revisit the draft ordinance it had considered on December 3, 2019, known as ZTA No. 17-002, which included a permitting program and enforcement tools, along with primary residency requirements, seasonal rental restrictions and rules for multifamily rentals.

Staff returned to Council with ZTA No. 17-002 on August 10, 2020, which was called Ordinance No. 468. After deliberations on ZTA No. 17-002, the Council continued the public hearing to September 14, 2020, so that it could be heard simultaneously with the scheduled hearing on the Hosted Ordinance, and also a revised, pared down version of ZTA No. 17-002 that focused solely on permitting and enforcement, now referred to as the Enforcement Ordinance.

In this report, staff is presenting the Hosted Ordinance, Ordinance No. 472 (LCPA 19-003 and ZTA 19-005), and the Enforcement Ordinance, the revised Ordinance No. 468 which is focused on permitting and enforcement tools. While the version of ZTA No. 17-002 presented on August 10, 2020 is also being considered, it will not be discussed in this staff report as a detailed discussion was included in the staff report for the August 10, 2020 meeting, which is included as Exhibit 5.

Background

On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002. The City Council directed staff to investigate potential options and procedures for

banning short-term rentals (30 days or less) in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the LCPA process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

On November 9, 2018, the Woolsey Fire reached Malibu and ultimately destroyed 488 single-family homes in the City. The local emergency declaration persisted until April 22, 2019.

On June 24, 2019, the Council authorized an agreement with Raftelis for financial analysis services to examine the short- and long-term financial implications of a potential short-term rental ban. The Administration and Finance Subcommittee received the financial report on October 3, 2019, and made recommendations that were considered by the Council on October 28, 2019, together with the other information previously requested, including potential options for a ban, and approaches other coastal cities have taken to legislate short-term rental regulation and associated litigation. At the conclusion of deliberations, Council directed staff to return with a resolution to initiate an LCPA and ZTA for "home-sharing" regulations similar to the City of Santa Monica. The Council directed staff to bypass the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) and take the LCPA/ZTA directly to the Planning Commission. Council also directed staff to return with an updated version of ZTA 17-002 from September 26, 2018, that could be implemented without an LCPA with the understanding that it would be superseded by the new Santa Monica-style LCPA/ZTA when approved.

On December 3, 2019, the Council considered ZTA No. 17-002 (presented at that time as Ordinance No. 458) to regulate short-term rentals of residential property and a resolution initiating a LCPA and ZTA for a "Santa Monica" style hosted ordinance. The Council did not move forward with ZTA No. 17-002 but did initiate the new LCPA and ZTA for the Santa Monica-style home-sharing regulations. While Santa Monica's ordinance requires the presence of an onsite host *within* the rented dwelling unit, the Council's direction was to require a "host" to live *onsite* at the property during the rental but not require the person to be *within* the dwelling unit. The Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included in the LCPA/ZTA. Pursuant to Council's direction, a hearing for the Planning Commission was scheduled for March 30, 2020.

However, in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings were cancelled until they resumed virtually in April 2020. Legislative matters expected to draw extensive public interest were temporarily postponed. On June 8, 2020, the Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission for a virtual public hearing.

On June 22, 2020, before the Planning Commission hearing on the Hosted ordinance, in response to resident concerns about short-term rentals and the need for regulation to more immediately address neighborhood impacts, the Council, by consensus, directed staff to return with an update of ZTA No. 17-002 to establish an ordinance that addressed enforcement tools but did not involve a change of the uses allowed in the City while the LCPA and ZTA were processed. The proposed ordinance would put in place a STR permitting system and new regulations to address nuisance issues and impacts on neighborhoods and also attach significant penalties to violations while the LCPA and ZTA for the Hosted Ordinance continue through the approval process.

On July 29, 2020, the Planning Commission held a public hearing to review the Draft Hosted STR Regulations in LCPA No. 19-003 and ZTA No. 19-005, including requiring an onsite host and multifamily regulations, and adopted Planning Commission Resolution No. 20-35 with recommendations to City Council.

On August 10, 2020, the City Council held a public hearing to consider ZTA No. 17-002 (Ordinance No. 468). Council continued the hearing and directed staff to return on September 14, 2020, with presentations that could be heard concurrently with ZTA No. 17-002 on: 1) a revised version of ZTA 17-002 (the Enforcement Ordinance) that is pared down to focus on providing enforcement tools to address negative and nuisance impacts of short-term rentals right away and 2) the Hosted Ordinance (LCPA No. 19-003/ZTA No. 19-005) and the Planning Commission's recommendations thereon.

Table 1 – Organization of Amendments

Hosted Ordinance				
	LCPA 19-003			
		LUP changes	Resolution No. 20-51 / Exhibit 3	Section 4
		LIP changes	Ordinance No. 472 / Exhibit 1	Section 2
	ZTA 19-005			
		Title 17 changes	Ordinance No. 472 / Exhibit 1	Section 4
	MMC Text changes			
		Chapter 15.44 changes	Ordinance No. 472 / Exhibit 1	Section 6
Enforcement Ordinance				
	ZTA 17-002			
		Title 17 changes	Ordinance No. 468 / Exhibit 2	Section 2
		Chapter 15.44 changes	Ordinance No. 468 / Exhibit 2	Section 3

Summary of Hosted Ordinance No. 472 (LCPA No. 19-003/ZTA No. 19-005)
The amendments address portions of the LCP and of Title 17 (Zoning Ordinance) of the MMC. A small change to MMC Chapter 15.44 pertaining to operating permits for onsite wastewater treatment systems is also included as it pertains to short-term rentals. The LCPA involves changes to both the LCP LUP (a policy document) and LIP, a regulatory

document. As shown in Table 1, the LIP changes and MMC changes are included together in Ordinance No. 472. The LUP changes are included in Resolution No. 20-51.

In general, the amendments propose to create an annual STR program to regulate short-term rentals in residential property, minimize impacts on neighborhood character and provide a mechanism to prohibit nuisance rentals. The amendments address nuisance issues that have developed under the recent, rapid, and substantial expansion of short-term rental activity in the City and protect residential neighborhood character and housing stock availability and variety. Some of the concepts will sound familiar as they have been presented in earlier drafts of the ordinance. Also, the permitting system included in the Hosted Ordinance LCPA/ZTA mirrors that of Enforcement Ordinance so that if it is adopted and ultimately superseded by the Hosted Ordinance LCPA/ZTA, a relatively seamless transition can occur.

Summary of Hosted ZTA

The proposed permit program has two distinct STR permit types: one for owners of single-family residences and condominium units to offer hosted short-term rentals, and one for owners of multifamily parcels to offer up to two units as short-term rentals as long as all other units are rented long-term.

- Hosted Short-Term Rental Permit (HSTR permit) - To be eligible for a hosted short-term rental permit, the property must be the owner's primary residence. In addition, the owner must live onsite, meaning maintain a physical presence on the property, including but not limited to, sleeping overnight, preparing and eating meals each day during the short-term rental of the property. The owner must also be available at all times to resolve any issues with the rented dwelling unit and must appear at the property within one hour of a phone call requesting such appearance by the City, and must be physically onsite from 8:00 p.m. until 6:00 a.m. The owner may authorize a designated operator to perform this function on his or her behalf. If a designated operator is selected, the operator is required to meet these requirements.

- Multifamily Short-term Rental Permit (MSTR permit) - Owners of multifamily residential parcels may obtain a multifamily short-term rental permit. This permit would allow the owner to rent up to two units on the parcel if all the other units on the property are rented on a long-term basis. Short-term rentals on multifamily properties do not require the owner or designated operator to live onsite during the rental.

Key requirements include:

- An individual may not possess more than one active short-term rental permit, regardless of type.
- A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented).
- Each permit may include up to two listings. This will allow a property that has two dwelling units (such as a main house and a second unit) to be able to rent either unit on a short-term basis. Either could be used as a hosted short-term rental, with the owner or designated operator living onsite either in the unrented unit or in a bedroom of the rented unit.
- No person may serve as a designated operator for more than one short-term rental concurrently.
- Permits must be renewed annually.

Short-term Rental General Requirements

To conduct short-term rentals, owners must comply with all the terms and conditions of the short-term rental program including, but not limited to, the following:

1. Maintain an active permit at all times short-term rentals are conducted
2. Take responsibility for and actively prevent any nuisance activities that may take place during short-term rentals
3. Be available, or designated operator be available, 24/7 via contact information provided to and kept current with City and any guest renting the property
4. Collect and remit TOT as set forth in MMC Chapter 3.24
5. Provide basic health and safety features for guests
6. Limit occupancy based on the number of bedrooms on record in City or County documents, as determined by the Planning Director, to two people more than twice the number of bedrooms, but no more than 14 unless a special event permit (SEP) is obtained under MMC Chapter 5.34 (example – for a 3 bedroom property – ((3 bedrooms x 2 people) + 2 people)) = 8 people max occupancy, including owner/designated operator)
7. Maintain liability insurance with minimum limits no less than $500,000
8. Provide guests with the City of Malibu's Short-Term Rental Code of Conduct
9. Provide access to the property and documents upon request by City during business hours or when property is rented
10. Comply with all applicable building, fire and other safety codes including noise limitations
11. Maintain a valid Onsite Wastewater Treatment System (OWTS) operating permit (a compliance agreement option is available for those in the process of upgrading)
12. Follow all rules for advertising short-term rentals:

- immediately remove any advertisement identified by the City as illegal;
- include permit number in all advertisements;
- clearly state in all advertisements related to a HSTR permit that the owner or designated operator will live onsite during the rental (not required for MSTR permits)
- clearly state occupancy limits

13. Keep permit application information on file with the City current at all times, especially 24/7 contact information for owner / designated operator

Grounds for Denial and Revocation of Permit

The amendments specify grounds for denial of a permit application or renewal request and for revocation of a permit. These include:

- Failure to pay TOT
- Outstanding code violations on the property
- Failure to comply with applicable codes like fire, building safety, etc.
- False statements in relation to the STR permit application
- Application information has not been updated as required
- OWTS requirements have not been met
- Property has received two or more citations for noise ordinance violations in 12 consecutive months
- For HSTR permit holders – three citations for other violations of the STR Ordinance in 12 consecutive months, for MSTR permit holders – two citations in 12 consecutive months

Effect of Permit Revocation or Denial

The amendments also prescribe significant impacts on an owner's ability to conduct short-term rentals if the owner's permit is denied or revoked. If an application is denied or a permit is revoked for making false statements on the application, violating Section 17.55.030(A)(9), or violating the City's noise ordinance more than twice within 12 months, a new application cannot be approved for that applicant and location for 12 months after the last violation or short-term rental. Essentially, that owner and property cannot conduct short-term rentals for a year.

If a property is found to be rented or advertised for short-term rental after permit denial or revocation, the property and applicant will be prohibited from short-term rentals for an additional six months on top of any time periods mentioned above.

An applicant may appeal a denial or revocation decision to the Planning Commission, but no short-term rentals may be conducted while the appeal is pending.

Enforcement

The amendments set forth special tools for enforcement, including setting a new fine for unpermitted short-term rentals at $1000 or twice the daily rental rate, whichever is higher, and setting the fine for all other violations at $500 or twice the daily rental rate. The amendments also clarify explicitly that offering or allowing short-term rental of any location not approved for use as a dwelling unit, such as any vehicle, trailer, tent, storage shed or garage, is prohibited.

Summary of Proposed LCPA

As noted earlier, the LCPA involves changes to the LCP LUP and LIP. The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP contains provisions and standards to carry out the policies of the LUP. Any development proposed in the City must first obtain a coastal development permit unless the LCP provides for an exemption.

The LCPA memorializes that short-term rental use is allowed in single-family residential zones, as it currently is, but only if it is hosted and conducted pursuant to a valid permit. It also memorializes that up to two units on multifamily parcels may be rented un-hosted on a short-term basis, but again only pursuant to a valid permit. A corollary change is included in ZTA 19-005 for MMC Title 17. The permitting requirements will allow the City to better control nuisance issues and avoid the proliferation of short-term rental businesses in which corporations and other entities buy up residences to use solely for vacation rentals, while ensuring a variety of visitor-serving accommodations remain available. In the LUP, the amendment addresses the purpose policies for each residential zoning district by specifying that hosted short-term rentals are allowed in single-family zones, and that only two dwelling units per multifamily parcel may be used for short-term rental in multifamily zones.

In the LIP, definitions have been added to LIP Section 2.1 to address short-term rental terms used in the LUP and LIP amendments. Table B – Permitted Uses has been updated to add hosted and multifamily short-term rental uses, subject to a valid short-term rental permit. And finally, language has been added to LIP Chapter 13 (Coastal Development Permits) to clarify that short-term rental use is not development requiring a coastal development permit so long as it is conducted pursuant to a valid short term-rental permit issued by the City and subject to certain criteria to ensure protection of coastal resources. This language has been added to a new Section 13.31 in response to comments from CCC staff (Exhibit 6) during the Planning Commission's review of the amendments. The other minor comments provided in the CCC staff comment letter have been incorporated into the amendments. City staff has had several discussions with CCC staff about the

City's approach to STR regulation but, to date, this comment letter is the only response that addresses specific changes to the proposed language.[1]

Comparison Between Santa Monica and Malibu Hosted Ordinance

One of the key features the Council wanted to borrow from the Santa Monica ordinance is the requirement of an onsite "host" during the rental, which is designed to monitor activity, prevent nuisance issues from arising, and facilitate prompt correction of any problems that develop. Second, the Council wanted to implement Santa Monica's system for preventing online platforms from completing transactions for illegal rentals, which has been upheld by the courts.

Staff has conferred with both City of Santa Monica staff and Michael Lustig[2] about the best way to integrate these, and other, aspects of the Santa Monica ordinance while also addressing conditions that are unique to Malibu. The City Santa Monica is a charter city with a robust rent control system, different municipal code that uses different terms, larger population, significantly larger and more dense multifamily zones, greater population of renters, and no LCP,[3] thus significant differences exist between the cities.

To achieve the Council's goals, the proposed ZTA and LCPA incorporate key features from Santa Monica's ordinance, including platform liability requirements. Some aspects of the Santa Monica's ordinance have been adapted to fit appropriately into the City of Malibu context. Adaptations of the Santa Monica ordinance for Malibu include:

- Hosted short-term rental vs. home-share. Santa Monica uses the term home-share[4] to refer to short-term rentals in which the host lives in the rented dwelling unit for the duration of the rental. The Council explicitly stated it wanted an onsite presence during the rental but did not want to require the host to be within the rented unit itself. The proposed amendments use the term "hosted" short-term rental to indicate that while the owner or designated operator must live onsite, that person need only live on the property, not in the same dwelling unit, during the rental.

- Owner and designated operator vs. primary resident. Santa Monica's ordinance requires that the primary resident (which can be the owner OR a renter) of the property must live onsite for the duration of the short-term rental. The draft Hosted Ordinance tracks the Council's goal of onsite monitoring but provides some limited

[1] CCC staff sent a letter dated 9/20/18 that was included as Attachment 2 to the August 10, 2020 Council agenda report that is included here as Exhibit 5.

[2] City Council direction on December 3, 2019, included that staff consult with Michael Lustig in preparation of the Hosted Ordinance.

[3] At this time, the City of Santa Monica has a Land Use Plan, which is a policy document, but has not achieved certification of a LIP by the CCC. As such, it does not have a certified LCP, and there would be no requirement to amend because a LIP does not exist.

[4] The City of Los Angeles uses the term "home-sharing" to refer to all short-term rental of residential property regardless of whether the host is present or not.

flexibility by allowing the property owner to assign a "designated operator" to live onsite instead of the owner, so long as the designated operator is required to: (1) resolve any nuisance or compliance issues, (2) produce records, and (3) allow Code Enforcement Officers to enter the property. Under the terms of the City's proposed Hosted Ordinance, the designated operator would also have to be located onsite between the hours of 8:00 p.m. and 6:00 a.m.

- Proof of Primary Residency. Santa Monica requires primary residents to submit two forms of documentation to provide proof of primary residency. As part of the City of Malibu's Woolsey Fire Rebuild Fee Waiver program, the City established that applicants can demonstrate primary residency with an active voter registration, a valid driver's license or other government issued identification card. The proposed ordinance is consistent with the primary residence documentation requirements established as part of the City's Fee Waiver Program for fire rebuilds.

- Multifamily Rentals. Council directed that, in contrast to Santa Monica's ordinance, up to two multifamily dwelling units on a property may be rented un-hosted so long as the other units on the property are rented on a long-term basis. This system prevents the conversion of multifamily units into unregistered hotels, protects some of the lowest cost housing in the City, and encourages units to be rented long-term at lower rent as short-term rental is only allowed if all other units are at full occupancy.

- Eligible Permit Applicants. The City's proposed ordinance only allows owners of residential or multifamily properties to apply for short-term rental permits. The City of Santa Monica also allows renters who can provide proof that their primary residence was the unit in question for the prior 12 months to apply for a short-term rental permit

- Parking. Santa Monica allows guests to park one vehicle per bedroom rented on the street or, if the short-term rental is located in a preferential parking zone, only two vehicles can use visitor parking permits. Per Council's direction on August 10, 2020, STR parking restrictions have been removed from the ordinance.

- Neighborhood Notification. Once a short-term rental permit is issued, the City will provide (at the permit holder's expense) all neighbors within 500 feet the contact information for the owner or designated operator of the short-term rental so that they can directly contact the onsite host with any concerns that may arise. This is not included in the Santa Monica ordinance.

Planning Commission Resolution No. 20-35

On July 29, 2020, the Planning Commission held a public hearing to review the Draft Hosted Regulations, LCPA No. 19-003 and ZTA No. 19-005, and adopted Planning

Commission Resolution No. 20-35 (Exhibit 4) to memorialize its recommendations. The Planning Commission recommended that the City Council adopt ZTA 19-005 without adopting LCPA 19-003. The Planning Commission also recommended several edits to ZTA 19-005, which have been incorporated into the proposed Hosted Ordinance currently under Council consideration.

A summary of the Planning Commission's comments on ZTA 19-005 is provided below:

Guest Houses. The Planning Commission recommended that guest houses be ineligible for short-term rental use. Based on the Council suggesting such use was to be allowed, staff has included the amendments needed to allow such use. If Council wishes to prohibit guest houses from being rented on a short-term basis this provision can be removed.

City Council Policy #43. This Council policy establishes a code enforcement policy for the City that states "anonymous complaints relating to zoning violations on residential properties will be not investigated." The Planning Commission suggested that this policy be revised to allow anonymous short-term rental complaints to be investigated. Policy #43 discourages false complaints, facilitates follow-up and investigations, and allows Code Enforcement personnel to determine if complaints are generated by one person or many. As the Council did not direct any change to this policy, it has not been included. Staff recommends that the policy remain consistent for all types of violations. If Council desires to revisit Policy #43 staff can bring back more detailed analysis and proposed language.

Multifamily Short-Term Rental Permits. The Planning Commission recommended that the short-term rental permit provisions for multifamily properties be amended to further restrict how many units can be rented. More specifically, the Commission's proposed change would prohibit more than 40% of the multifamily units from being rented. The multifamily limits previously recommended by the Council already limit multifamily properties to having a maximum of two units available for short-term rental (if all other units are rented on a long-term basis). The Commission's proposed change would thus primarily affect duplexes, triplexes, and quadplexes. The change would completely bar short-term rentals in duplexes, and limit triplexes and quadplexes to one unit instead of two. Based on the Council's direction to allow up to two units on a multifamily parcel to be rented on a short-term basis, this change was not incorporated into the proposed amendments. If Council wishes to modify the provisions for multifamily short-term rental permits these sections can be amended.

Enforcement. The Planning Commission was concerned that the ordinance did not include sufficient enforcement tools to properly address nuisance properties and recommended several changes to this end that have been incorporated in the proposed amendments. These include changes to the following:

- Definition of Designated Operator. The definition has been changed to say that the designated operator is "required" to take certain actions pursuant to the STR permit rather than authorized as previously stated.
- Terms of Permit Revocation or Denial. The Planning Commission recommended that the terms of revocation or denial for violations of the STR ordinance be strengthened. The language has been changed from "more than three" to "three or more" for the Hosted STR Permits and from "more than two" to "two or more" for Multifamily Permits. However, the distinction between "major" violations, such as noise, for which two strikes is sufficient, and more minor infractions, for which three strikes is sufficient, is maintained.
- Fines. The Planning Commission recommended that the fines for violation be increased. The Commission added that for all violations of the ordinance, the owner shall be subject to a fine of $500 per day or violation, or the short-term rental's advertised daily rental rate per day or violation, whichever is higher, rather than the City's standard escalating citation amount, and agreed with the proposed fine of $1000 per day or twice the rental rate for any violation of Section 17.55.020(A), which is the short-term rental requirements. This has been incorporated into the proposed Hosted Ordinance and Enforcement Ordinance.

Summary of the Enforcement Ordinance (Revised ZTA 17-002)
The Enforcement Ordinance is a revised version of Ordinance No. 468 that was presented to the City Council on August 10, 2020. As Council directed, it has been revised to remove the primary resident requirement and certain other requirements to focus on providing enforcement tools to address negative and nuisance impacts of short-term rentals. Instead of three separate permit types, the ordinance is simplified to one type of STR permit. The regulatory and enforcement structure mirrors the Hosted Ordinance so that once the Hosted Ordinance LCPA is certified by the CCC, the main adjustment will primarily be imposing the onsite host requirement and multifamily limitations. The other regulatory and administrative requirements will be largely the same.

The proposed ordinance, as revised, does not change the uses currently allowed in the City, and instead, imposes regulations to address nuisance issues and impacts on neighborhoods. It is designed to provide more immediate enforcement tools while the Hosted Ordinance (LCPA No. 19-003/ZTA No. 19-005) is processed, avoid conflict between the ordinances, and facilitate the eventual implementation of the Hosted Ordinance.

An LCPA is required when the uses allowed within the City are changed. However, no such amendment is required to adopt enforcement mechanisms designed to prevent nuisance impacts without altering the land uses themselves. The Enforcement Ordinance does not prohibit un-hosted rentals in the City or change the land uses allowed. Instead it attaches penalties and regulations to deal with negative impacts of short-term rentals that have developed, and become more prominent, with the recent explosion in online short-

term rental activity. It has been carefully designed with this focus in order to allow it to be quickly implemented and provide relief to residents located near impactful short-term rental properties and avoid the need for CCC certification.

The following is a summary of the key points of Enforcement Ordinance and the STR permit system:

- Requires a 24/7 contact that can address STR issues
- Notification of permit issuance and STR contact information is provided to all neighbors within a 500-foot radius.[5]
- Establishes maximum occupancy rates based on the number of bedrooms
- Requires a valid OWTS Operating Permit for the property or a compliance agreement with the City[6] within two years of the issuance of an STR permit
- Establishes that permits may be denied or revoked if:
    - The owner has not paid all TOT due
    - The property has outstanding code violations
    - The property does not comply with all applicable safety codes, laws or ordinances
    - The owner has falsified the application
    - The owner has failed to update the application (such as with updated 24/7 contact information)
    - The property is not in condition to be rented in accordance with the ordinance requirements
    - The property has received two citations for violation of the City's noise ordinance within a 12-month consecutive period
    - The property has received three citations for other violations within a 12-month period
- Maintains the same fine structure as the Hosted Ordinance

Under this system, if a permit is denied or revoked for falsification or the accrual of citations, the short-term rental of property must cease immediately and shall not be permitted again for 12 months. Any short-term rental of property during this period would result in additional penalties, including an extension of the period rentals are prohibited for an additional six-month period for each violation.

[5] The applicant would be responsible for the staff cost of generating the address list and postage for this notification. Staff previously recommended removing this requirement to eliminate which could be substituted by an E-notification list of STR permit approvals or staff providing the contact information upon request.

[6] If a property does not have an operating agreement, the owner may enter into a City-approved compliance agreement pursuant to MMC section 17.55.020(C) to satisfy the requirement.

Next Steps

Enforcement Ordinance

Ordinance No. 468 (revised ZTA 17-002) is proposed to become effective on January 15, 2021. This is intended to allow sufficient time for the City and people currently renting their property on a short-term basis to prepare for the new STR permit protocols. City staff will initiate a robust public outreach and education campaign to notify residents and short-term rental platforms of the new permit requirements and regulations. Staff will also work to prepare the permit applications and establish a permit review process immediately so that property owners can submit their applications well in advance of the January 15, 2021, deadline to comply with the new ordinance.

Hosted Ordinance (LCPA 19-003 and ZTA 19-005)

If Ordinance No. 472 and Resolution No. 20-51 are approved by the Council, the LCPA will then be submitted to CCC for certification.

Upon final certification of the amendment, and likely starting before, the City will conduct an extensive public outreach program to notify property owners of the upcoming policy changes, followed by coordination with Host Compliance or another vendor, Code Enforcement and the Sheriff's Department to implement and enforce the new regulations.

Current Market Landscape
The City currently contracts with Host Compliance to monitor STR listings online. According to Host Compliance, there were 452 properties in or near Malibu advertised for short-term rental as of August 2, 2020.

Administration and Code Enforcement Personnel
Prior to the final LCPA adoption, the City will ensure that it has the appropriate consultant support and personnel necessary to administer and enforce the new requirements including the onsite host and multifamily provisions. If a budget amendment is needed to support these additional resources, it will be presented to Council as part of the mid-year budget process in January 2021. The City currently has a contract with Host Compliance to monitor short-term rentals in Malibu across over 50 rental booking internet platforms.

Once the ordinance is in effect, staff will work with Host Compliance or another contract provider if needed, to monitor online compliance with the adopted regulations, process permit applications through an online portal, operate a short-term rental hotline for residents to report violations and administer TOT collection. Planning and Management and Administrative staff will implement and administer the STR permitting program. Code Enforcement staff in cooperation with the Sheriff will investigate complaints, issue citations, and work to resolve violations, including any related to large events. Additional

enforcement including short-term rental sting operations may be necessary to ensure compliance with all regulations.

ENVIRONMENTAL REVIEW: The Planning Department has analyzed the proposed project in accordance with the authority and criteria contained in the CEQA, the State CEQA Guidelines, and the environmental regulations of the City. The Planning Department determined 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters. Further, the Ordinance is exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines which states that permitting and licensing of existing private structures involving negligible or no expansion of existing or former use in that the proposed short-term rental permitting program will establish rules and regulations that do not expand existing residential uses. Additionally, the Ordinance is exempt pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) in that the regulatory program established will facilitate enforcement actions, such as permit revocation, for nuisance short-term rental properties. Finally, in accordance with the CEQA, Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This Ordinance is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect.

CORRESPONDENCE: Correspondence from the public received subsequent to publication of the July 29, 2020 Planning Commission Agenda Report and the August 10, 2020 City Council Agenda Report is available on City's short-term rental website, malibucity.org/str. Correspondence received after the August 10, 2020 Council meeting is included with this report as Exhibit 7.

PUBLIC NOTICE: For ZTA No. 17-002, on July 16, 2020, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties; and all owners/operators currently registered with the City's TOT Program (Exhibit 8). On August 20, 2020, for the Hosted Ordinance (LCPA 19-003 and ZTA 19-005) and the Enforcement Ordinance (the revised version of ZTA 17-002), a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties; and all owners/operators currently registered with the City's TOT Program. In addition, posts were made on the City's social media platforms for all items (Exhibit 8).

EXHIBITS:

1. Ordinance No. 472 (Hosted Ordinance LCPA 19-003 and ZTA 19-003)
2. Ordinance No. 468 (Enforcement Ordinance, revised ZTA 17-002)
3. Resolution No. 20-51 (LCPA No. 19-003)
4. Planning Commission Resolution No. 20-35
5. Council Agenda Report for August 10, 2020, including ZTA 17-002
6. Letter from CCC staff dated July 29, 2020
7. Correspondence received after August 10, 2020 Council meeting
8. Notices of Public Hearing

ORDINANCE NO. 472

AN ORDINANCE OF THE CITY OF MALIBU AMENDING THE LOCAL COASTAL PROGRAM (LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003) AND TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE (ZONING TEXT AMENDMENT NO. 19-005) REGULATING THE RENTAL OF RESIDENTIAL UNITS FOR 30 DAYS OR LESS (SHORT-TERM RENTALS) INCLUDING BUT NOT LIMITED TO REQUIRING THE PRESENCE OF AN ONSITE HOST DURING SHORT-TERM RENTAL, AND OTHER RESTRICTIONS, AND CLARIFYING PERMITTED USES RELATED TO SHORT-TERM RENTAL CITYWIDE, AMENDING CHAPTER 15.44 PERTAINING TO OPERATING PERMITS FOR ONSITE WASTEWATER TREATMENT SYSTEMS AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby ordain 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 platforms that consolidate and facilitate the short-term rental of property, the City has seen increased violations of its prohibition against illegal hotel, motel, and bed and breakfast inn 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 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the

draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

J. The September 11, 2018 City Council Regular Meeting was cancelled.

K. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

L. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

M. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

N. On June 24, 2019, the City Council authorized the City Manager to execute the Professional Services Agreement with Raftelis Financial Consultants, Inc. for financial analysis services to examine the short- and long-term financial implications of a potential ban on short-term rentals.

O. On October 3, 2019, the City Council Administration and Finance Subcommittee, received a report the short and long-term financial implications of a potential ban on STRs and recommended that requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

P. On October 28, 2019, the City Council received financial analysis on the

implications and potential impacts of a ban on short-term rentals. Council also discussed the potential options and procedures for banning short-term rentals, whether an amendment to the Local Coastal Program (LCP) is necessary for a short-term rental ban, and approaches other coastal cities have taken to legislate short-term rentals and associated litigation in those cities. Council directed staff to initiate a ZTA and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals to include provisions similar to Santa Monica's home-sharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance (ZTA No. 17-002) to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

Q. On December 3, 2019, the City Council held a duly noticed public hearing on ZTA No. 17-002. The City Council did not move forward with ZTA No. 17-002 at that time but did adopt Resolution No. 19-53 initiating a new LCPA No. 19-003 and ZTA No. 19-005 to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica's ordinance requires the presence of an onsite host within the rented dwelling unit, known as a "home-share" or a "hosted" rental. The City Council's direction was to require a "host" to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The City Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included.

R. Beginning in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings began to be held virtually in April. Legislative matter drawing extensive public interest were temporarily postponed. On June 8, 2020, the Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission for a virtual public hearing.

S. On June 22, 2020, in response to immediate resident concerns about neighborhood impacts from short-term rentals, the City Council directed staff to bring back the ordinance presented to the City Council on December 3, 2019 (ZTA No. 17-002) establishing provisions to regulate short-term rental property.

T. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record pertaining to hosted short-term rental regulations. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City Council adopt ZTA No. 19-005, with modifications, including that short-term rental of guest houses not be allowed, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

U. On August 10, 2020, the City Council held a duly noticed public hearing on ZTA No. 17-002 (Ordinance No. 468), reviewed and considered the staff report, written reports, public testimony, and other information in the record. City Council continued Ordinance No. 468 to the September 14, 2020 Regular meeting in order to consider it concurrently with the hosted short-term rental amendments (LCPA No. 19-003 and ZTA No. 19-005) and with a revised version of Ordinance No. 468. Council directed staff to modify Ordinance No. 468 in order to remove the

primary resident requirement and certain other requirements to focus on providing enforcement tools against nuisance properties while LCPA No. 19-003 is being processed.

V. On September 14, 2020, the City Council held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the staff report, written reports, public testimony, and other information in the entire record of the City's consideration of short-term rental regulations.

SECTION 2. Local Coastal Program Amendments.

The LCP Local Implementation Plan (LIP) is amended as follows:

A. LIP Section 2.1 is hereby amended by adding the following definitions, inserted in alphabetical order:

DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and
C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

B. LIP Section 3.3(Q)(2)(a) Planned Development (PD) Zone is amended to add subsection (v) to section (a):

a. Lot Nos. 1—5

i. One single-family residence per lot.
ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
iii. Domestic animals, kept as pets.
iv. Landscaping.
v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

C. LIP Section 13.31 is added to LIP Chapter 13 (Coastal Development Permits) to read as follows:

13.31 Short-term Rental of Residential Property

A. No coastal development permit is required nor is the City required to maintain a record of coastal development permit exemption pursuant to LIP Section 13.4.10 for short-term rental of residential property as defined in Section 2.1 of this LIP provided that such use meets all of the following criteria:

1. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.

2. The short-term rental use is conducted in a dwelling unit that was lawfully established as described in LIP Section 13.3(F).
3. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

D. LIP Table B – Permitted Uses (Key to Table) is amended to read as follows:

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	**Permitted use**
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**
CUP	**Requires the approval of a Conditional Use Permit**
A	**Permitted only as an accessory use to an otherwise permitted use**
LFDC	**Requires the approval of a Large Family Day Care permit**
WTF	**Requires the approval of a Wireless Telecommunications Facility**
STR	**Use requires valid short-term rental permit approved by the City**
·	**Not permitted (Prohibited)**

E. LIP Table B – Permitted Uses is amended by inserting the following new use category to the end of the Residential section of the table after the "Home Occupation" category and adding two new footnotes 21 and 22:

USE	**RR**	**SF**	**MF**	**MFBF**	**MHR**	**CR**	**BPO**	**CN**	**CC**	**CV-1**	**CV-2**	**CG**	**OS**	**I**	**PRF**	**RVP**
RESIDENTIAL																
Short-term rental	STR[21]	STR[21]	STR[22]	STR[22]	STR[21]	·	·	·	·	·	·	·	·	·	·	·

21. Hosted short-term rental only in RR, SF and MHR zones
22. Maximum of two dwelling units per parcel for MF and MFBF zones

SECTION 3. LCP Amendment Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed LCPA No. 19-003 meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act as follows:

A. The amendment maintains standards to require that uses and development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will assure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

B. The amendment will be consistent with the following policies:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

No conversion or removal of lower cost opportunities for visitor-serving accommodations results from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which can be more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to be used for short-term rentals, which is currently prohibited.

2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

SECTION 4. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is amended as follows:

A. MMC Section 17.02.060 (Definitions) is hereby amended to add the following definitions, inserted in alphabetical order:

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Designated operator" means any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Guest House" means detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. Guest houses may be used for short-term rentals pursuant to a valid short-term rental permit issued by the City.

"Hosted short-term rental" means a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with Section 17.55.040.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

"Lives onsite" means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit. This definition is applicable to Chapter 17.55 only.

"Owner" means any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner. This definition is applicable to Chapter 17.55 only.

"Primary Residence" means the usual place of return for housing of an owner as documented to the satisfaction of the City Manager by an active voter registration, a valid driver's license or other government issued identification card with the address of the property. A person can only have one primary residence. This definition is applicable to Chapter 17.55 only.

"Short-term rental" of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

B. MMC Section 17.08.020 (Permitted Uses, Rural Residential) is amended to add subsection L:

L. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

C. MMC Section 17.10.020 (Permitted Uses, Single Family) is amended to add subsection I:

I. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

D. MMC Section 17.12.020 (Permitted Uses, Multiple Family) is amended to add subsection J:

J. Short-term rental use of no more than two units per parcel pursuant to a valid short-term rental permit issued by the City.

E. MMC Section 17.14.020 (Permitted Uses, Multifamily Beachfront) is amended to add subsection I:

I. Short-term rental use of no more than two units per parcel pursuant to a valid short-term rental permit issued by the City.

F. MMC Section 17.16.020 (Permitted Uses, Mobile Home) is amended to add subsection C:

C. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

G. MMC Chapter 17.55 (Short-term Rental of Property) is hereby added to read as follows:

Section 17.55.010 Short-Term Rental of Property

A. Hosted short-term rental of single-family residential property, and the short-term rental of up to two dwelling units on a multifamily housing parcel, is allowed as specified in Section 17.55.040 if conducted in compliance with this Chapter 17.55 and the owner complies with each of the following requirements:
    1. Obtains and maintains at all times a Short-Term Rental Permit issued pursuant to this Chapter.
    2. Operates the short-term rental activity in compliance with all permit conditions for short-term rental as set forth in Section 17.55.020 and any regulations promulgated pursuant to this Chapter.
    3. Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 3.24 of this Code.
    4. Takes responsibility for and actively prevents any nuisance activities that may take place as a result of short-term rental activities.
    5. Is available, or a designated operator is available, 24 hours a day, 7 days a week, at a phone number provided to both the City and any guest staying at the property to

immediately answer a call from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property. No person may serve as a designated operator for more than one hosted short-term rental concurrently.

6. Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
7. Limits the occupancy of the short-term rental (including the host, guests, and any other natural persons) to two people more than twice the number of bedrooms listed on City or County records as determined by the Planning Director up to a maximum of 14 people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
8. Maintains liability insurance to cover the short-term rental of property with minimum limits of not less than $500,000 or conducts each short-term rental transaction through a hosting platform that provides equal or greater coverage.
9. Complies with Section 17.55.080 governing advertisements of short-term rentals.
10. Provides all guests with the Short-term Rental Code of Conduct, which shall be developed by the City Manager, and posts the same on the inside of the main entrance door to the dwelling unit rented, or on the wall adjacent thereto.
11. Provides 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 her/his designee for purposes of inspection or audit.
12. Complies with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
13. Maintains a valid Onsite Wastewater Treatment System (OWTS) operating permit pursuant to Chapter 15.44 or has entered a compliance agreement with the City excusing such compliance and is in full compliance with the compliance agreement and not in default or breach.

Section 17.55.020 Short-Term Rental Permit Required

A. No person shall offer, facilitate an offer, or allow the short-term rental of property in any location not specifically identified and approved on a valid short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.

B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit. Each permit may include up to two listings, one per dwelling unit.

C. Application Required. To obtain a short-term rental permit an owner shall submit an application on a form to be provided by the City and signed by the owner under penalty of perjury.

D. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:

1. Address of the proposed short-term rental
2. Type of dwelling unit
3. Contact information for the owner of the property
4. Contact information for the designated operator, if a designated operator will live onsite for the hosted short-term rental
5. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.010(A)(14) paired with an attestation that the owner is in full compliance with the compliance agreement and not in default or breach
6. Attestation and agreement to comply with the requirements of this Chapter
7. Proof that the owner is in compliance with Chapter 3.24 of this code
8. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property
9. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that owner has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the owner maintains a short-term rental permit for the property.
10. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy
11. Attestation of compliance with the required insurance coverage
12. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis
13. The type of short-term rental permit sought: hosted or multifamily
14. If seeking a hosted short-term rental permit, proof of primary residency and attestation that the location is the owner's primary residence, meaning that the owner lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the owner's primary residence for the duration of the permit shall suffice
15. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire parcel, and an attestation that all dwelling units (except for two) are rented on a long term-basis per Section 17.55.040(B). The permit holder shall maintain copies of the leases for

all tenants documenting compliance at all times with Section 17.55.040(B) for a period of three years following the expiration of the short-term rental permit.

E. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.

F. Notice of Approval. Upon approval, the Planning Director shall provide, at the owner's expense, the contact information for the owner or designated operator identified in 17.55.010(A)(5) to all dwelling units within 500 feet of the short-term rental unit's parcel boundary.

G. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

H. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes, or immediately for any change in the owner or designated operator's contact information. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection (D) of this Section shall constitute a material change. A permittee may not cure a violation of this Chapter by seeking to amend a short-term rental permit after a violation occurs; short-term rental of a property may only be conducted as specifically authorized by an active short-term rental permit.

I. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.

J. No Transfer or Assignment. A short-term rental permit may not be assigned or transferred to another person.

K. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.

L. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

M. Possession of a STR permit does not excuse any other permitting requirements of this code including but not limited to TOT and special event permit requirements.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:

1. The owner has not paid all TOT due or is not in compliance with Chapter 3.24 of this code.

2. The property has outstanding code enforcement violations.
3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
5. The owner has failed to amend an application as required by Section 17.55.020(H).
6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter.
7. The property has received two or more citations for violation of the City's noise ordinance within a period of 12 consecutive months.
8. Failure to comply with Section 17.55.010(A)(13)
9. A holder of a Hosted Short-term Rental Permit receives three or more citations for violation of any combination of the following requirements within a period of 12 consecutive months, or a holder of a Multifamily Short-term Rental Permit receives two or more citations for violation of any combination of the following requirements within a period of 12 consecutive months:
    i. The requirements of Sections 17.55.010(A)(4), (7), (10), (11), 17.55.040(A), and Section 17.55.080.

17.55.040 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Hosted Short-term Rental Permit. A primary resident owner may obtain this type of permit which allows hosted short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. The owner, or designated operator, must live onsite during any period of rental, and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner or designated operator must be located onsite, and present immediately upon request, during the hours of 8 p.m. to 6 a.m. during any period that the unit is rented. Multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that a primary resident owner of a condominium unit may obtain this type of permit for the unit where he or she has established his or her primary residence.

B. Multifamily Short-term Rental Permit. Owners of entire parcels that have multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two units on the parcel so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

17.55.050 Renewal of Short-term Rental Permit

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.

B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.

C. No permit shall be renewed unless all city fees and taxes owed by the owner are paid in full, including the renewal fee.

17.55.060 Effect of Denial or Revocation of Short-term Rental Permit

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that owner and location for a 12 month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the owner knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(9), or (3) two or more citations for violation of the City's noise ordinance in a period of 12 consecutive months, a new application shall not be approved for a period of at least 12 months from the date of the last violation or short-term rental of the property, whichever is later.

B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of 12 months from the date of revocation.

C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other penalty) result in the property and owner being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.

D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.070 Appeals

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.

B. The completed appeal form must be delivered to the City Clerk within 30 calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.

C. Failure to deliver the completed appeal form as required by section (B) above will result in the denial or revocation being deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.

E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 Advertisement and Facilitation of Short-term Rentals

A. The owner shall include and prominently post the following information in any advertisement for short-term rental:

    1. The short-term rental permit number issued by the City;

    2. That the owner lives onsite and the owner or designated operator will live onsite throughout the visitor's stay unless the advertisement is for a permitted multifamily short-term rental;

    3. The permitted occupancy of the short-term rental as specified in the short-term rental permit application; and

    4. Any other information required by regulations promulgated pursuant to this Chapter.

B. No advertisements regarding the availability of a dwelling unit for short-term rental shall be posted in or on any exterior area of the dwelling unit, any exterior area of any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.

C. The address of the property shall be prominently displayed.

D. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental.

E. Any offer or advertisement for the short-term rental of property in the City that does not contain a valid short-term rental permit number, or which the City identifies as illegal to the person or entity advertising or offering the rental, shall be immediately removed from any location it is posted, whether online or otherwise.

17.55.090 Hosting Platform Responsibilities

A. Hosting platforms shall be responsible for collecting all applicable TOT and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the TOT the Hosting platform failed to collect and/or remit to the City.

B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.

C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.

D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.

E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C), and (D) above, shall be presumed to be in compliance with this Chapter and shall not be found in violation of Section 17.55.080.

F. The provisions of this Section 17.55.090 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.100 Regulations

The City Manager or designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.110 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 Section 17.55.020(A) by an owner shall be subject to a fine of $1000 per day or violation, or twice the short-term rental's advertised daily rental rate per day or violation, whichever is higher, and for all other violations an owner shall be subject to a

fine of $500 per day or violation, or the short-term rental's advertised daily rental rate per day or violation, whichever is higher.

B. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code or local coastal program committed by guests at the property.

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.

H. MMC Title 17 – Appendix 1 (Permitted Uses Table) – Key to Table is hereby amended to read as follows:

KEY TO TABLE (In addition to a coastal development permit where applicable, MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	Permitted use
MCUP	Requires the approval of a minor Conditional Use Permit by the Director
CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility
STR	Use requires valid short-term rental permit approved by the City
•	Not permitted (Prohibited)

I. MMC Title 17 – Appendix 1 – (Permitted Uses Table) is amended by inserting the following new use category after the "Home Occupations" use category in the table and two new footnotes 32 and 33:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Short-term rental	STR[32]	STR[32]	STR[33]	STR[33]	STR[32]	·	·	·	·	·	·	·	·	·	·	·

32. Hosted short-term rental only in RR, SF and MHR zones
33. Maximum of two dwelling units per parcel for MF and MFBF zones

SECTION 6. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be made prior to or concurrent with the application for a short-term rental permit. An

operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 7. Zoning Text Amendment Findings.

The City Council hereby finds that ZTA No. 19-005 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], protect rural residential character [General Plan LU Policy 1.1.4], protect and preserve the unique character of the City's distinct neighborhoods, and conserve affordable housing in the Coastal Zone [General Plan Housing Policy 1.4].

ZTA No. 19-005 will support these policies by introducing regulations to reduce the impact of short-term rentals on neighbors and the community.

SECTION 8. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters. Further, the Ordinance is exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines which states that permitting and licensing of existing private structures involving negligible or no expansion of existing or former use in that the proposed short-term rental permitting program will establish rules and regulations that do not expand existing residential uses. Additionally, the Ordinance is exempt pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) in that the regulatory program established will facilitate enforcement actions, such as permit revocation, for nuisance short-term rental properties. Finally, in accordance with the CEQA, Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This Ordinance is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect.

SECTION 9. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 10. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit the LCP amendments contained in Section 2 of this Ordinance to the California Coastal Commission per Title 14, California Code of Regulations Section 13554.5(a).

SECTION 11. Effectiveness.

The LCP amendment and corollary ZTA approved in this Ordinance shall become effective only upon certification by the California Coastal Commission of this amendment to the LCP.

SECTION 12. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2020.

_____
MIKKE PIERSON, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

_____
CHRISTI HOGIN, City Attorney

ORDINANCE NO. 468

AN ORDINANCE OF THE CITY OF MALIBU AMENDING TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE AND ADDING CHAPTER 17.55 (SHORT-TERM RENTAL ORDINANCE) TO ESTABLISH PROVISIONS TO REGULATE SHORT-TERM RENTAL OF PROPERTY CITYWIDE, UPDATING CHAPTER 15.44 PERTAINING TO ONSITE WASTEWATER TREATMENT SYSTEMS AND SHORT-TERM RENTALS AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby ordain 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. This ordinance neither allows new uses nor prohibits use types as currently allowed under the City's municipal code and local coastal program. It instead imposes regulations to limit negative impact of these uses and provides enforcement tools.

B. With the recent proliferation of short-term rental use due to the growth of internet platforms that consolidate and facilitate the short-term rental of property, the City has seen increased violations of its prohibition against illegal hotel, motel, and bed and breakfast inn use and an increase in short-term rental activity in the City and related impacts.

C. Code enforcement efforts to enforce the Malibu Municipal Code (MMC) have been resisted and challenged by operators. Additional regulation of short-term rental activity to limit the impact of short-term rentals on neighbors and the community, will benefit the City.

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

E. On May 23, 2017, the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City Council reviewed a draft ordinance (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

F. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

G. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

H. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

I. The September 11, 2018 City Council Regular Meeting was cancelled.

J. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

K. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

L. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

M. On June 24, 2019, the City Council authorized the City Manager to execute the Professional Services Agreement with Raftelis Financial Consultants, Inc. for financial analysis services to examine the short- and long-term financial implications of a potential ban on short-term rentals.

N. On October 3, 2019, the City Council Administration and Finance Subcommittee, received a report the short and long-term financial implications of a potential ban on STRs and recommended that requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

O. On October 28, 2019, the City Council received financial analysis on the implications and potential impacts of a ban on short-term rentals. Council also discussed the potential options and procedures for banning short-term rentals, whether an amendment to the Local Coastal Program (LCP) is necessary for a short-term rental ban, and approaches other coastal cities have taken to legislate short-term rentals and associated litigation in those cities. Council directed staff to initiate a ZTA and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals to include provisions similar to Santa Monica's home-sharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance

(ZTA No. 17-002) to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

P. On December 3, 2019, the City Council held a duly noticed public hearing on ZTA No. 17-002. The City Council did not move forward with ZTA No. 17-002 at that time but did adopt Resolution No. 19-53 initiating a new LCPA No. 19-003 and ZTA No. 19-005 to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica's ordinance requires the presence of an onsite host within the rented dwelling unit, known as a "home-share" or a "hosted" rental. The City Council's direction was to require a "host" to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The City Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included.

Q. Beginning in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings began to be held virtually in April. Legislative matter drawing extensive public interest were temporarily postponed. On June 8, 2020, the Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission for a virtual public hearing.

R. On June 22, 2020, in response to immediate resident concerns about neighborhood impacts from short-term rentals, the City Council directed staff to bring back the ordinance presented to the City Council on December 3, 2019 (ZTA No. 17-002) establishing provisions to regulate short-term rental property.

S. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record pertaining to hosted short-term rental regulations. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City Council adopt ZTA No. 19-005, with modifications, including that short-term rental of guest houses not be allowed, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

T. On August 10, 2020, the City Council held a duly noticed public hearing on ZTA No. 17-002 (Ordinance No. 468), reviewed and considered the staff report, written reports, public testimony, and other information in the record. City Council continued Ordinance No. 468 to the September 14, 2020 Regular meeting in order to consider it concurrently with the hosted short-term rental amendments (LCPA No. 19-003 and ZTA No. 19-005) and with a revised version of Ordinance No. 468. Council directed staff to modify Ordinance No. 468 in order to remove the primary resident requirement and certain other requirements to focus on providing enforcement tools against nuisance properties while LCPA No. 19-003 is being processed.

U. On September 14, 2020, the City Council re-opened the public hearing on ZTA No. 17-002 (Ordinance No. 468) as revised to focus on enforcement, reviewed and considered the agenda report, written reports, public testimony, and other information in the entire record of the City's consideration of short-term rental regulations.

SECTION 2. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is amended as follows:

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

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and

2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

"Short-term rental" of property shall mean the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of thirty (30) consecutive days or less to a transient.

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

Section 17.55.010 Short-term Rental Permit Required.

A. Short-term rental of property (or the advertisement, offer, or facilitation, of such rental), is prohibited unless conducted in strict compliance with the requirements of this chapter by

an owner who possesses a valid short-term rental permit. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental. Any offer or advertisement for the short-term rental of property in the city that does not contain a valid short-term rental permit number, or which the City identifies as illegal, shall be immediately removed.

B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented).

C. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:
    1. Contact information for the owner of the property, including phone number and email.
    2. Contact information for the owner's agent as required by Section 17.55.020(A) (6). An owner may serve as the owner's agent. Contact information for the owner's agent will be made available to the public upon request.
    3. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.020(C) paired with an attestation that the applicant is in full compliance with the compliance agreement and not in default or breach must be included as of January 1, 2023.
    4. Attestation and agreement to comply with the requirements of this Chapter.
    5. Proof that the owner and operator of the rented property is in compliance with Chapter 3.24 of this code.
    6. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property.
    7. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that applicant has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the applicant maintains a short-term rental permit for the property.
    8. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy.
    9. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis.

D. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.

E. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

F. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes, or immediately for any change in the owner's agent contact information. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection C of this Section shall constitute a material change. A permittee may not cure a violation of this Chapter by seeking to amend a short-term rental permit after a violation occurs; short-term rental of a property may only be conducted as specifically authorized by an active short-term rental permit.

G. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.
H. No Transfer or Assignment. A short-term rental permit may not be assigned or transferred to another person.
I. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.
J. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted
K. The City Manager or her/his designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.020 Specific Requirements for Short-term Rentals.

A. The following requirements shall be strictly adhered to by those conducting the short-term rental of property:
    1. The short-term rental activity complies with all short-term rental permit conditions, the requirements of this Chapter, and any regulations promulgated pursuant to this Chapter
    2. The owner shall collect and remit transient occupancy tax, in coordination with any hosting platform (if utilized), to the City and comply with all City transient occupancy tax requirements as set forth in Chapter 3.24 of this Code.
    3. The owner shall take responsibility for, and actively prevent, any nuisance activities that may take place as a result of short-term rental activities.
    4. The owner shall ensure that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
    5. The owner's agent, with access to the dwelling unit and authority to fix any problems or violations of this chapter, must be available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any guest staying at the property to answer a call from the City, an agent authorized by the City to make such calls or a guest when there is a guest renting the property.
    6. Owner or owner's agent must 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 her/his designee for purposes of inspection or audit.
    7. Owner or owner's agent must 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. The maximum occupancy of a short-term rental property (including the guests, owner, and any other natural persons) 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 fourteen (14) people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code. This occupancy, as listed on the short-term rental permit, shall not be exceeded at any time the property is rented.
    9. The short-term rental permit number must be prominently posted on all advertisements for the short-term rental of the property.

10. The short-term rental activity shall comply with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.

B. No person shall offer, facilitate an offer, or allow short-term rental of property in any location not specifically identified and approved on a short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.

C. As of January 1, 2023, short-term rental of property is prohibited on any property unless the owner of the property (1) has obtained a valid OWTS operating permit for the property pursuant to Chapter 15.44 or (2) has entered a compliance agreement with the City excusing such compliance, and is in compliance with the compliance agreement and not in default or breach. In addition to all other remedies, a violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:

1. The owner has not paid all transient occupancy tax due or is not in compliance with Chapter 3.24 of this Code
2. The property has outstanding code enforcement violations.
3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
5. The owner has failed to amend an application as required by Section 17.55.010(G).
6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this Chapter.
7. The property has received two or more citations for violations of the City's noise ordinance within a period of 12 consecutive months.
8. Failure to comply with Section 17.55.020(C)
9. Failure to comply with the requirements of Section 17.55.040
10. A holder of a Short Term Rental Permit has received a total of three (3) or more citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months:
    a. The requirements of Sections 17.55.020(A) (3), (4), (6), (7), (9), 17.55.040, or violation of any condition or requirement of the short-term rental permit.

17.55.040 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.050 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant nor for that location for a twelve (12) month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(10), (3) two (2) or more citation for violation of the City's noise ordinance in a period of twelve (12) consecutive months, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation and after a new short-term rental permit is issued.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other penalty) result in the property and applicant being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.
D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.060 Appeals.

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.
D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.

E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.070 Hosting platform responsibilities.

A. Hosting platforms shall be responsible for collecting all applicable transient occupancy tax and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of transient occupancy tax collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the transient occupancy tax the hosting platform failed to collect and/or remit to the City.
B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.
C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.
D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to an unpermitted short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.
E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C) and (D) above, shall be presumed to be in compliance with this Chapter. If technical issues pose a substantial obstacle to compliance with this Section, a hosting platform may also satisfy these obligations pursuant to a compliance agreement with the City that prevents booking transactions for unpermitted short-term rentals, collects all transient occupancy tax due, and complies with the disclosure requirements of this Section.
F. The provisions of this Section 17.55.070 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.080 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 Section 17.55.010(A) shall be subject to a fine of $1000 per day or violation, or twice the advertised short-term rental's daily rental rate per day or violation, whichever is higher, and for all other violations an owner shall be subject to a fine of $500 per day or violation, or the short-term rental's advertised daily rate per day or violation, whichever is higher.

B. The short-term rental permit holder shall be held responsible for violations of the municipal code committed by guests at the property.

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 3. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application made after January 1, 2023, by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be made prior to or concurrent with the application for a short-term rental permit. An operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 4. Zoning Text Amendment Findings.

The City Council 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], protect rural residential character [General Plan LU Policy 1.1.4], protect and preserve the unique character of the City's distinct neighborhoods, and conserve affordable housing in the Coastal Zone [General Plan Housing Policy 1.4].

ZTA No. 17-002 will support these policies by 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

SECTION 5. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters. Further, the Ordinance is exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines which states that permitting and licensing of existing private structures involving negligible or no expansion of existing or former use in that the proposed STR permitting program will establish rules and regulations that do not expand existing residential uses. Additionally, the Ordinance is exempt pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) in that the regulatory program established will facilitate enforcement actions, such as permit revocation, for nuisance short-term rental properties.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 7. Effectiveness.

This Ordinance will become effective on January 15, 2021, following its passage and adoption.

SECTION 8. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2020.

_____
MIKKE PIERSON, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

CHRISTI HOGIN, City Attorney

RESOLUTION NO. 20-51

A RESOLUTION OF THE CITY OF MALIBU DETERMINING LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003 IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND AMENDING THE LOCAL COASTAL PROGRAM LAND USE PLAN TO MODIFY CHAPTER 3 PERTAINING TO SHORT-TERM RENTALS (CITYWIDE)

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

SECTION 1. Recitals.

A. The City of Malibu wishes to address the potential impacts of short-term rental of residential property and protect the neighborhood character in the City by adopting regulations for the short-term rental of property that prohibit use inconsistent with the General Plan and impose prohibitions and regulations consistent thereof.

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

C. On May 23, 2017, the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City Council reviewed a draft ordinance (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

D. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

E. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

F. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

G. The September 11, 2018 City Council Regular Meeting was cancelled.

H. On September 26, 2018, the City Council held a duly noticed public hearing

on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

I. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

J. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

K. On June 24, 2019, the City Council authorized the City Manager to execute the Professional Services Agreement with Raftelis Financial Consultants, Inc. for financial analysis services to examine the short- and long-term financial implications of a potential ban on short-term rentals.

L. On October 3, 2019, the City Council Administration and Finance Subcommittee, received a report the short and long-term financial implications of a potential ban on STRs and recommended that requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

M. On October 28, 2019, the City Council received financial analysis on the implications and potential impacts of a ban on short-term rentals. Council also discussed the potential options and procedures for banning short-term rentals, whether an amendment to the Local Coastal Program (LCP) is necessary for a short-term rental ban, and approaches other coastal cities have taken to legislate short-term rentals and associated litigation in those cities. Council directed staff to initiate a ZTA and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals to include provisions similar to Santa Monica's home-sharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance (ZTA No. 17-002) to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

N. On December 3, 2019, in compliance with Local Coastal Program (LCP) Local Implementation Plan (LIP) Chapter 19, the City Council adopted Resolution No. 19-53 to initiate Local Coastal Program (LCP) Amendment No. 19-003 to consider changes to the Malibu LCP and Zoning Text Amendment (ZTA) No. 19-005 to consider changes to Title 17 (Zoning) of the Malibu Municipal Code (MMC) and provided direction to staff on the definitions and regulations to include in the proposed amendments.

O. Beginning in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings began to be held virtually in April. Legislative matters drawing extensive public interest were temporarily postponed.

P. On March 5, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

Q. On March 12, 2020, the Special Planning Commission meeting of March 30, 2020 was adjourned to April 6, 2020 due to the COVID-19 pandemic.

R. On April 6, 2020, the Planning Commission continued the item to a date uncertain.

S. On June 8, 2020, Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission with a virtual public hearing.

T. On July 2, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

U. On July 16, 2020, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu.

V. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City Council adopt ZTA No. 19-005, with modifications, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

W. On August 20, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents for LCPA No. 19-003 was published in a newspaper of general circulation within the City of Malibu.

X. On September 14, 2020, the City Council held a duly noticed public hearing on LCPA No. 19-003, considered the recommendation by the Planning Commission,

reviewed and considered written reports, public testimony, and related information in the record.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCPA and therefore, does not apply to this application. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect

SECTION 3. Local Coastal Program Amendment Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed LCPA No. 19-003 meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act as follows:

A. The amendment maintains standards to require that development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will assure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

B. The amendment will be consistent with the following policies:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost

opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

SECTION 4. Local Coastal Program Amendment No. 19-003.

LCPA No. 19-003 includes the following amendments.

A. Amend LUP Chapter 5 (New Development), Section C (Land Use Policies), Subsection 2 (Land Use Designations) to replace the land use designation descriptions below with the amended language to read as follows:

RURAL RESIDENTIAL (RR): The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. Hosted short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City. The following maximum residential density standards shall apply:

RR1	One dwelling unit per acre
RR2	One dwelling unit per 2 acres
RR5	One dwelling unit per 5 acres
RR10	One dwelling units per 10 acres
RR20	One dwelling unit per 20 acres
RR40	One dwelling unit per 40 acres

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. Hosted short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MOBILE HOME RESIDENTIAL (MHR): The MHR designation is intended to accommodate existing mobile home parks and associated facilities. Hosted short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MULTI-FAMILY RESIDENTIAL (MF): The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted. Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City, up to a maximum of two dwelling units per parcel.

B. Amend LUP Policy 5.20 to read as follows:

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

C. Amend LUP Policy 2.34 to read as follows:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

SECTION 5. Approval.

Subject to the contingency set forth in Section 8, the City Council hereby adopts LCPA No. 19-003, amending the LCP.

SECTION 6. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA No. 3-001 to the CCC for certification, in conformance with the submittal requirements specified in California Code of Regulations, Title 14, Division 5.5., Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations section 13551, et. seq.

SECTION 7. Effectiveness.

The LCP amendment approved in this Resolution shall become effective only upon its certification by the CCC.

SECTION 8. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 14th day of September 2020.

_____
MIKKE PIERSON, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE
CHRISTI HOGIN, City Attorney

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 20-35

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE AMENDMENT TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND RECOMMENDING THAT THE CITY COUNCIL ADOPT ONLY ZONING TEXT AMENDMENT NO. 19-005 REGULATING THE RENTAL OF RESIDENTIAL UNITS FOR 30 DAYS OR LESS (SHORT-TERM RENTALS) INCLUDING BUT NOT LIMITED TO REQUIRING THE PRESENCE OF AN ONSITE HOST DURING CERTAIN SHORT-TERM RENTALS, AND OTHER RESTRICTIONS (CITYWIDE)

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

SECTION 1. Recitals.

A. The City of Malibu wishes to address the potential impacts of short-term rental of residential property and protect the neighborhood character in the City by adopting regulations for the short-term rental of property that prohibit use inconsistent with the General Plan and impose prohibitions and regulations consistent thereof.

B. On December 3, 2019, in compliance with Local Coastal Program Local Implementation Plan Chapter 19, the City Council adopted Resolution No. 19-53 to initiate a Local Coastal Program (LCP) Amendment to consider changes to the Malibu LCP and a Zoning Text Amendment (ZTA) to consider changes to Title 17 (Zoning) of the Malibu Municipal Code (MMC) and provided direction to staff on the definitions and regulations to include in the proposed amendments.

C. On March 5, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

D. On March 12, 2020 the Special Planning Commission meeting of March 30, 2020 was adjourned to April 6, 2020 due to the COVID-19 pandemic.

E. On April 6, 2020, the Planning Commission continued the item to a date uncertain.

F. On July 2, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

G. On July 16, 2020, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu.

H. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City

Council adopt ZTA No. 19-005, with modifications, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. Local Implementation Plan (LIP) Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of, the exempt activity, they are subject to the same CEQA exemption.

The Planning Commission has analyzed the project proposal described herein. The California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Commission determined that there is no possibility the amendment will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Zoning Text Amendment.

The Planning Commission hereby recommends that the City Council amend the MMC as detailed in Exhibit A.

SECTION 4. Zoning Text Amendment Findings.

Pursuant to MMC section 17.74.040, the Planning Commission hereby makes the following findings and recommends to the City Council that the MMC be amended as stated in Exhibit A of this resolution.

A. The subject zoning text amendment is consistent with the objectives, policies, general land uses and programs specified in the General Plan. The proposed amendment serves to enhance the Malibu General Plan Mission Statement, protect public safety and preserve Malibu's natural and cultural resources.

B. The Planning Commission held a public hearing, reviewed the subject zoning text amendment application for compliance with the City of Malibu General Plan, Malibu Municipal Code and the Malibu Local Coastal Program, and finds that the zoning text amendment is consistent and recommends approval.

SECTION 5. Based on the above findings, the Planning Commission hereby recommends that the City Council approve the ZTA and detailed in Exhibit A.

SECTION 6. Additional Recommendations.

The Planning Commission hereby makes the following additional recommendations for City Council consideration as part of its deliberations on the proposed amendments.

A. The Planning Commission recommends that the City Council not adopt LCPA No. 19-003 or amend the LCP in any way pertaining to short-term rentals and find such amendment is not necessary.

B. The Planning Commission recommends that the Council update City Council Policy No. 43 (Code Enforcement Policy) to exclude short-term rental complaints from the requirement that written complaints be subject to inspection on request of the person(s) accused of the violation(s).

SECTION 7. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 29th day of July 2020.

JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-35 was passed and adopted by the Planning Commission of the City of Malibu at the special meeting thereof held on the 29th day of July 2020, by the following vote:

AYES:	5	Commissioners:	Marx, Uhring, Weil, Mazza, Jennings
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		

KATHLEEN STECKO, Recording Secretary

Exhibit A: Title 17 – Zoning Code Amendments

EXHIBIT A
Malibu Municipal Code Title 17
Zoning Text Amendment

A. MMC Section 17.02.060 (Definitions) is hereby amended by adding the following definitions, inserted in alphabetical order, or replacing where there is an existing definition:

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Designated operator" means any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Hosted short-term rental" means a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with Section 17.55.040.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

"Lives onsite" means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit. This definition is applicable to Chapter 17.55 only.

"Owner" means any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner. This definition is applicable to Chapter 17.55 only.

"Primary Residence" means the usual place of return for housing of an owner as documented to the satisfaction of the City Manager by an active voter registration, a valid driver's license or other government issued identification card with the address of the property. A person can only have one primary residence. This definition is applicable to Chapter 17.55 only.

"Short-term rental" of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

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

Section 17.55.010 Short-Term Rental of Property

A. Hosted short-term rental of single-family residential property, and the short-term rental of up to two dwelling units on a multifamily housing parcel, is allowed as specified in Section 17.55.040 if conducted in compliance with this Chapter 17.55 and the owner complies with each of the following requirements:
    1. Obtains and maintains at all times a Short-Term Rental Permit issued pursuant to this Chapter.
    2. Operates the short-term rental activity in compliance with all permit conditions for short-term rental as set forth in Section 17.55.020 and any regulations promulgated pursuant to this Chapter.
    3. Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 3.24 of this Code.
    4. Takes responsibility for and actively prevents any nuisance activities that may take place as a result of short-term rental activities.
    5. Is available, or a designated operator is available, 24 hours a day, 7 days a week, at a phone number provided to both the City and any guest staying at the property to immediately answer a call from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property. No person may serve as a designated operator for more than one hosted short-term rental concurrently.
    6. Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
    7. Limits the occupancy of the short-term rental (including the host, guests, and any other natural persons) to two people more than twice the number of bedrooms listed on City or County records as determined by the Planning Director up to a maximum of 14 people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
    8. Requires all persons present at the property during a period when there is a short-term rental of a property to park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces as determined by the Planning Director are exempt from this requirement, but no more than one (1) vehicle may be parked on the street by persons present at the property during the short-term rental of the property.
    9. Maintains liability insurance to cover the short-term rental of property with minimum limits of not less than $500,000 or conducts each short-term rental transaction through a hosting platform that provides equal or greater coverage.
    10. Complies with Section 17.55.080 governing advertisements of short-term rentals.

11. Provides all guests with the Short-term Rental Code of Conduct, which shall be developed by the City Manager, and posts the same on the inside of the main entrance door to the dwelling unit rented, or on the wall adjacent thereto.
12. Provides 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 her/his designee for purposes of inspection or audit.
13. Complies with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
14. Maintains a valid Onsite Wastewater Treatment System (OWTS) operating permit pursuant to Chapter 15.44 or has entered a compliance agreement with the City excusing such compliance, and is in full compliance with the compliance agreement and not in default or breach.

Section 17.55.020 Short-Term Rental Permit Required

A. No person shall offer, facilitate an offer, or allow the short-term rental of property in any location not specifically identified and approved on a valid short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.
B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit. Each permit may include up to two listings, one per dwelling unit.
C. Application Required. To obtain a short-term rental permit an owner shall submit an application on a form to be provided by the City and signed by the owner under penalty of perjury.
D. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:
    1. Address of the proposed short-term rental
    2. Type of dwelling unit and unit designation
    3. Contact information for the owner of the property
    4. Contact information for the designated operator, if a designated operator will live onsite for the hosted short-term rental
    5. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.010(A)(14) paired with an attestation that the owner is in full compliance with the compliance agreement and not in default or breach
    6. Attestation and agreement to comply with the requirements of this Chapter
    7. Proof that the owner is in compliance with Chapter 3.24 of this code
    8. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property
    9. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that owner has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the owner maintains a short-term rental permit for the property.

10. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy
11. Attestation of compliance with the required insurance coverage
12. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis
13. The type of short-term rental permit sought: hosted or multifamily
14. If seeking a hosted short-term rental permit, proof of primary residency and attestation that the location is the owner's primary residence, meaning that the owner lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the owner's primary residence for the duration of the permit shall suffice
15. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire building, and an attestation that all dwelling units (except for two) are rented on a long term-basis per Section 17.55.040(B). The permit holder shall maintain copies of the leases for all tenants documenting compliance at all times with Section 17.55.040(B) for a period of three years following the expiration of the short-term rental permit.

E. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.
F. Notice of Approval. Upon approval, the Planning Director shall provide, at the owner's expense, the contact information for the owner or designated operator identified in 17.55.010(A)(5) to all dwelling units within 500 feet of the short-term rental unit's parcel boundary.
G. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.
H. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection (D) of this Section shall constitute a material change.
I. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.
J. No Transfer or Assignment. A short-term rental permit may not be assigned or transferred to another person.
K. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.
L. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.
M. Possession of a short-term rental permit does not excuse the holder from any other requirements of this code, including but not limited to meeting transient occupancy tax or special event permit requirements.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit.

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:
    1. The owner has not paid all TOT due or is not in compliance with Chapter 3.24 of this code.
    2. The property has outstanding code enforcement violations.
    3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
    4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
    5. The owner has failed to amend an application as required by Section 17.55.020(H).
    6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter.
    7. The property has received more than one citation for violation of the City's noise ordinance within a period of 12 consecutive months.
    8. Failure to comply with Section17.55.010(A)(14)
    9. A holder of a Hosted Short-term Rental Permit receives a total of two citations for violation of any combination of the following requirements within a period of 12 consecutive months, or a holder of a Multifamily Short-term Rental Permit receives a total of two citations for violation of any combination of the following requirements within a period of 12 consecutive months:
        i. The requirements of Sections 17.55.010(A)(4), (7), (8), (11), (12), 17.55.040(A), and Section 17.55.080.

17.55.040 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Hosted Short-term Rental Permit. A primary resident owner may obtain this type of permit which allows hosted short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. The owner, or designated operator, must live onsite during any period of rental, and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner or designated operator must be located onsite, and present immediately upon request, during the hours of 8 p.m. to 6 a.m. during any period that the unit is rented. Multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that a primary resident owner of a condominium unit may obtain this type of permit for the unit where he or she has established his or her primary residence.
B. Multifamily Short-term Rental Permit. Owners of entire multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes,

condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to 40% of the units in the building, up to a maximum of two units, so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

17.55.050 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the owner are paid in full, including the renewal fee.

17.55.060 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that owner and location for a 12 month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the owner knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(9), or (3) more than one citation for violation of the City's noise ordinance in a period of 12 consecutive months, a new application shall not be approved for a period of at least 12 months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of 12 months from the date of revocation.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other penalty) result in the property and owner being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.
D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.070 Appeals.

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would

like to be considered.

B. The completed appeal form must be delivered to the City Clerk within 30 calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above will result in the denial or revocation being deemed final.
D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 Advertisement and Facilitation of short-term rentals

A. The owner shall include and prominently post the following information in any advertisement for short-term rental:
    1. The short-term rental permit number issued by the City;
    2. That the owner lives onsite and the owner or designated operator will live onsite throughout the visitor's stay unless the advertisement is for a permitted multifamily short-term rental;
    3. The permitted occupancy of the short-term rental as specified in the short-term rental permit application;
    4. The permitted number of visitor vehicles, in accordance with Section 17.55.010(A)(8);
    5. Any other information required by regulations promulgated pursuant to this Chapter.
B. No advertisements regarding the availability of a dwelling unit for short-term rental shall be posted in or on any exterior area of the dwelling unit, any exterior area of any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.
C. The address of the property shall be prominently displayed.
D. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental.
E. Any offer or advertisement for the short-term rental of property in the City that does not contain a valid short-term rental permit number, or which the City identifies as illegal to the person or entity advertising or offering the rental, shall be immediately removed from any location it is posted, whether online or otherwise.

17.55.090 Hosting platform responsibilities.

A. Hosting platforms shall be responsible for collecting all applicable TOT and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the TOT the Hosting platform failed to collect and/or remit to the City.
B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price

paid for each stay.

C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.
D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.
E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C), (D) and (E) above, shall be presumed to be in compliance with this Chapter and shall not be found in violation of Section 17.55.080.
F. The provisions of this Section 17.55.090 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.100 Regulations.

The City Manager or designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.110 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 Section 17.55.020(A) by an owner shall be subject to a fine of $1000 per day or violation, or twice the short-term rental's advertised daily rental rate per day or violation, whichever is higher, and for all other violations an owner shall be subject to a fine of $500 per day or violation, or the short-term rental's advertised daily rental rate per day or violation, whichever is higher.
B. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code or local coastal program committed by guests at the property.
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.

City Council Meeting
08-10-20
Item
4.C.

Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: July 30, 2020 Meeting date: August 10, 2020

Subject: Interim Short-Term Rental Ordinance

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 468 (Attachment 1) amending Title 17 (Zoning) of the Malibu Municipal Code and adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 468 for the August 24, 2020 Regular City Council Meeting.

FISCAL IMPACT: In Fiscal Year 2018-2019 the City collected $2.42 million from Transient Occupancy Tax (TOT) of short-term residential rentals, and in Fiscal Year 2019-2020 the City anticipates it will collect $1.7 million (unaudited). The Adopted Budget for Fiscal Year 2020-2021 anticipates that the City will receive $1.3 million. Ordinance No. 468 is anticipated to reduce the TOT collected from short-term residential rentals, but the extent of this decrease cannot be determined at this time. The impacts from this ordinance are expected to be significantly less than for the Santa Monica-style ("hosted") ordinance, which was considered by the Planning Commission on July 29, 2020.

The proposed ordinance provides for a new permit with an associated fee. Staff will return to Council with a revised Fee Schedule before Ordinance No. 468 is scheduled to go into effect. All associated budget amendments to revenue and expenses will be brought to Council as part of the mid-year budget process in January 2021.

EXHIBIT 5

WORK PLAN: This item was included as item 4d in the Adopted Work Plan for Fiscal Year 2020-2021.

DISCUSSION: The item before the Council is the first step toward a new permitting system and regulations for short-term rentals in the City. Two efforts are proceeding concurrently. The item before the City Council is an update to Zoning Text Amendment (ZTA) No. 17-002, an amendment to the Malibu Municipal Code (MMC) zoning provisions, which Council has previously considered, which, if approved, will establish an Interim Short-term Rental Ordinance. The other effort is a Draft ZTA and an amendment to the City's Local Coastal Program (LCP). That Draft ZTA/LCPA, which is described in more detail below, is being heard by the Planning Commission on August 10, 2020, and will be scheduled for the Council to consider thereafter. The ZTA/LCPA is intended to supersede the subject ZTA in the future.

Background

On December 3, 2019, the Council considered ZTA No. 17-002 (presented as Ordinance No. 458) to regulate the short-term rental (30 days or less) of residential property, based on extensive Council direction provided at prior public hearings. Prior to Council's consideration, the Planning Commission considered the ZTA at its meetings on November 20, 2017, and May 7, 2018, and the Council considered the item on September 26, 2018, and July 9, 2018, before the Woolsey fire delayed further proceedings.

On December 3, 2019, the Council did not move forward with ZTA No. 17-002 but did initiate a new LCPA and ZTA to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica's ordinance requires the presence of an onsite host within the rented dwelling unit, known as a "home-share" or a "hosted" rental. The Council's direction was to require a "host" to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included in the LCPA/ZTA.

On July 29, 2020, the Planning Commission held a public hearing to review the Draft LCPA and ZTA that includes the hosted rental system. The Draft LCPA and ZTA will be presented to Council in the coming weeks, and then must be certified by the California Coastal Commission (CCC) before it can become effective.

On June 22, 2020, in response to resident concerns about short-term rentals and the need for regulation to address neighborhood impacts especially during the ongoing COVID-19 pandemic, the Council, by consensus, directed staff to return with an update of ZTA No. 17-002 to establish an interim ordinance while the LCPA and ZTA are processed. The proposed ordinance would put in place a short-term rental (STR)

permitting system and new regulations to address nuisance issues and impacts on neighborhoods and also attach significant penalties to violations while the LCPA and ZTA continue through the approval process.

The proposed ordinance does not change the uses currently allowed in the City, and instead, imposes regulations to address nuisance issues and impacts on neighborhoods. The multifamily regulations address these issues, but also are designed to ensure that multifamily structures are not illegally converted to hotel/motel use. The City's current code language and regulations make enforcement of the City's code difficult and do not provide relief for a number of the impacts of short-term rental use. The multifamily regulations are particularly important as the illegal conversion of these structures into effective hotel/motel use threatens some of the most affordable housing in the City.

Summary of the Proposed Ordinance

Ordinance No. 468 establishes a STR permit system with three types of permits: 1) primary resident, 2) non-primary resident, and 3) multifamily with different permit requirements and permissions for each permit type that must be renewed annually. In general, the permit requirements and permissions proposed are stricter for non-primary resident permits and multifamily permits than for primary residents in order to minimize impacts and nuisance issues and preserve neighborhood character.

The following is a summary of the key points of Ordinance No. 468 and the STR permit system:

- Limits individuals to one active STR permit
- Requires a 24/7 contact that can address STR issues
- Establishes maximum occupancy rates based on the number of bedrooms
- Prohibits on-street parking, with an exception for the few homes that have no onsite parking
- Requires a valid OWTS Operating Permit for the property or a compliance agreement with the City[1]
- Establishes that permits may be denied or revoked if:
    - The owner has not paid all TOT due
    - The property has outstanding code violations
    - The property does not comply with all applicable safety codes, laws or ordinances
    - The owner has falsified the application in any way

[1] If a property does not have an operating agreement, the owner may enter into a City-approved compliance agreement pursuant to MMC section 17.55.020(C) to satisfy the requirement.

    - The owner has failed to amend the application (such as with updated 24/7 contact information)
    - The property is not in condition to be rented in accordance with the ordinance requirements
    - The property has received more than two citations for violation of the City's noise ordinance within a twelve-month period
    - For primary resident STR permits, the property has received three citations for other violations in 12 months, and for non-primary or for multifamily STR permits, the property has received two citations in 12 months
- Requires that applicants seeking a primary resident STR permit provide proof to demonstrate primary residency government issued identification will be required (which is the same proof required for Woolsey fire fee waivers) and attest that the property is used as their primary residence for at least 185 days per year

The ordinance places additional restrictions on non-primary resident STR permits and on multifamily STR permits to prevent the conversion of permanent housing into solely STR rental and/or hotel/motel use including:

    - Non-primary resident permits would only allow the short-term rental of property between April 1 and September 30
    - Multifamily permits would allow a maximum of two units to be rented on a multifamily property (but only if all other units are rented on a long-term basis)
    - Non-primary resident permits and multifamily permits can be revoked or denied for two citations/violations instead of three

Under this system, if a permit is denied or revoked, the short-term rental of property must cease immediately and shall not be permitted again for 12 months. Any short-term rental of property during this period would result in additional penalties, including an extension of the period rentals are prohibited for an additional six-month period for each violation.

Updates to the Proposed Ordinance since December 3, 2019

Staff reviewed the ordinance presented to the Council on December 3, 2019, and has made some modifications to better align with the Santa Monica-style ordinance of the LCPA/ZTA that is concurrently being processed and to address more recent constraints on City resources and staff time as a result of the COVID-19 pandemic. The modifications highlighted below are intended to reduce the burden to homeowners and staff to implement this ordinance and provide for a smoother transition if the Santa Monica-style ordinance is approved as proposed.

Proof of Primary Residence – This provision has been updated to be consistent with the primary residence documentation requirements established as part of the City's Woolsey Fire Rebuild Fee Waiver program. The Fee Waiver program (Resolution No. 20-32) requires applicants to demonstrate primary residency with an active voter registration, a valid driver's license or other government issued identification card.

Onsite Wastewater Treatment System (OWTS) – The previous version of the ordinance required property owners to either obtain a valid OWTS operating permit for the property or enter into a compliance agreement with the City to address outstanding OWTS issues. This requirement was changed to allow property owners two years (until January 1, 2023) to submit a valid OWTS operating permit. This change was made in recognition of the fact that this ordinance is intended to be superseded by the new LCPA and ZTA. Some property owners who may be eligible for a STR permit under the terms of this ordinance may no longer be eligible to rent their homes on a short-term basis under the new ZTA and LCPA and the OWTS upgrades necessary to obtain an OWTS operating permit may require a significant financial outlay from homeowners.

Notice of Approval – The previous version of the ordinance included a provision whereby once a STR permit was approved, the City would send the contact information for the owner's agent to all dwelling units within 500 feet of the short-term rental unit's parcel boundary. This provision was been removed from the proposed ordinance. This change was made in recognition of the fact that mail is not the most reliable form of notification, especially while property owners are still displaced from the Woolsey Fire, and that the contact information for the owner or owner's agent may change causing the mailers to become outdated. Instead, owners will be encouraged to reach out to their neighbors, and contact information for the owner's agent will be made available to the public upon request.

Platform Liability – A section has been added to address platform liability in the manner already implemented by the City of Santa Monica. This section includes a provision requiring platforms to disclose to the City on a regular basis certain information on each short-term rental listings located in the City. In addition, it prohibits hosting platforms from completing any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.

Enforcement and Penalties – This section has been amended to increase the potential penalties for violations of this Chapter and further deter violations. The proposed ordinance establishes that "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, or <u>twice</u> the advertised short-term rental's daily rental rate per day or violation, whichever is higher." Previous versions of the ordinance

stipulated that “any violation of this Chapter shall be subject to a fine of $1,000 per day or violation, or the advertised short-term rental’s daily rental rate per day or violation, whichever is higher.”

California Coastal Commission

In response to an earlier version of the Ordinance presented to the Council on September 26, 2018, the CCC staff wrote a letter to the City dated September 20, 2018, stating that “Commission staff views the City’s proposed amendment as a supportable effort to provide for some regulatory controls and management provisions for short-term rentals” (Attachment 2). The proposed ordinance does not change the uses in the City but rather adds regulations designed to limit negative impacts the City and its residents have experienced from short-term rentals while aiding enforcement.

Next Steps

Ordinance No. 468 is proposed to become effective on January 15, 2021. This is intended to allow sufficient time for the City and people currently renting their property on a short-term basis to prepare for the new STR permit protocols. City staff will initiate a robust public outreach and education campaign to notify residents and short-term rental platforms of the new permit requirements and regulations. Staff will also work to prepare the permit applications and establish a permit review process in Fall 2020 so that property owners can submit their applications well in advance of the January 15, 2021, deadline to comply with the new ordinance.

PUBLIC NOTICE: On July 16, 2020, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties; and all owners/operators currently registered with the City’s TOT Program (Attachment 3). In addition, posts were made on the City’s social media platforms.

ATTACHMENTS:

1. Ordinance No. 468 (ZTA No. 17-002)
2. September 20, 2018 Letter from California Coastal Commission staff
3. Notice of Public Hearing

ORDINANCE NO. 468

AN ORDINANCE OF THE CITY OF MALIBU AMENDING TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE AND ADDING CHAPTER 17.55 (SHORT-TERM RENTAL ORDINANCE) TO ESTABLISH PROVISIONS TO REGULATE SHORT-TERM RENTAL OF PROPERTY CITYWIDE AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby ordain 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 platforms that consolidate and facilitate the short-term rental of property, the City has seen increased violations of its prohibition against illegal hotel, motel, and bed and breakfast inn 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, 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently

prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

J. The September 11, 2018 City Council Regular Meeting was cancelled.

K. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

L. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

M. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

N. On October 28, 2019, the City Council held a duly noticed public hearing on short-term rentals and directed staff to initiate a Zoning Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

O. On December 3, 2019, the City Council held a duly noticed public hearing on ZTA No. 17-002. The City Council did not move forward with ZTA No. 17-002 at that time but did adopt Resolution No. 19-53 initiating a new Local Coastal Program Amendment (LCPA) and ZTA to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica's ordinance requires the presence of an onsite host within the rented dwelling unit, known as a "home-share" or a "hosted" rental. The City Council's direction was to require a "host" to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The City Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included.

P. On June 22, 2020, the City Council directed staff to bring back the ordinance presented to the City Council on December 3, 2019 establishing provisions to regulate short-term rental property.

Q. On August 10, 2020, the City Council held a duly noticed public hearing on the proposed ordinance, reviewed and considered the staff report, written reports, public testimony, and other information in the record and approved the ordinance and directed staff to schedule second reading and adoption for August 24, 2020.

SECTION 2. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is amended as follows:

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

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and

2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

"Short-term rental" of property shall mean the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or

consideration, of residential property, a dwelling unit, or a portion thereof, for a period of thirty (30) consecutive days or less to a transient.

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

Section 17.55.010 Short-term Rental Permit Required.

A. Short-term rental of property (or the advertisement, offer, or facilitation, of such rental), is prohibited unless conducted in strict compliance with the requirements of this chapter by an owner who possesses a valid short-term rental permit. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental. Any offer or advertisement for the short-term rental of property in the city that does not contain a valid short-term rental permit number, or which the City identifies as illegal, shall be immediately removed.
B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit. No more than two dwelling units may be approved for short-term rental on a legal lot.
C. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:
    1. Contact information for the owner of the property, including phone number and email.
    2. Contact information for the owner's agent as required by Section 17.55.020(A) (6). An owner may serve as the owner's agent. Contact information for the owner's agent will be made available to the public upon request.
    3. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.020(C) paired with an attestation that the applicant is in full compliance with the compliance agreement and not in default or breach must be included as of January 1, 2023.
    4. Attestation and agreement to comply with the requirements of this Chapter.
    5. Proof that the owner and operator of the rented property is in compliance with Chapter 3.24 of this code.
    6. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property.
    7. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that applicant has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the applicant maintains a short-term rental permit for the property.
    8. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy.
    9. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis.
    10. The type of short-term rental permit sought: primary resident, non-primary resident, or multifamily.

11. If seeking a primary resident short-term rental permit, proof of primary residency and attestation that the location is the applicant's primary residence, meaning that the applicant lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the applicant's primary residence for the duration of the permit shall suffice. Primary residency must be established with a valid active voter registration, driver's license, or other government-issued identification card that includes the address of the property for which a short-term rental permit is sought.
12. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire building, and an attestation that all dwelling units (except for two) are rented on a long term-basis per Section 17.55.040(C). The permit holder shall maintain copies of the leases for all tenants documenting compliance at all times with Section 17.55.040(C) for a period of three years following the expiration of the short-term rental permit.

D. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.
E. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.
F. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection C of this Section shall constitute a material change.
G. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.
H. No Transfer or Assignment. A short-term rental permit may not be assigned or transferred to another person.
I. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.
J. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted
K. The City Manager or her/his designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.020 Specific Requirements for Short-term Rentals.

A. The following requirements shall be strictly adhered to by those conducting the short-term rental of property:
    1. The short-term rental activity complies with all short-term rental permit conditions, the requirements of this Chapter, and any regulations promulgated pursuant to this Chapter
    2. The owner shall collect and remit transient occupancy tax, in coordination with any hosting platform (if utilized), to the City and comply with all City transient occupancy tax requirements as set forth in Chapter 3.24 of this Code.

3. The owner shall take responsibility for, and actively prevent, any nuisance activities that may take place as a result of short-term rental activities.
4. All persons present at the property during a period when there is a short-term rental of a property must park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces as determined by the Planning Director are exempt from this requirement, but no more than one (1) vehicle may be parked on the street by persons present at the property during the short-term rental of the property.
5. The owner shall ensure that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
6. The owner's agent, with access to the dwelling unit and authority to fix any problems or violations of this chapter, must be available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any guest staying at the property to answer a call from the City, an agent authorized by the City to make such calls or a guest when there is a guest renting the property.
7. Owner or owner's agent must 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 her/his designee for purposes of inspection or audit.
8. Owner or owner's agent must 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.
9. The maximum occupancy of a short-term rental property (including the guests, owner, and any other natural persons) 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 fourteen (14) people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code. This occupancy, as listed on the short-term rental permit, shall not be exceeded at any time the property is rented.
10. The short-term rental permit number must be prominently posted on all advertisements for the short-term rental of the property.
11. The short-term rental activity shall comply with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.

B. No person shall offer, facilitate an offer, or allow short-term rental of property in any location not specifically identified and approved on a short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.

C. As of January 1, 2023, short-term rental of property is prohibited on any property unless the owner of the property (1) has obtained a valid OWTS operating permit for the property pursuant to Chapter 15.44 or (2) has entered a compliance agreement with the City excusing such compliance, and is in compliance with the compliance agreement and not in default or breach. In addition to all other remedies, a violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:

1. The owner has not paid all transient occupancy tax due or is not in compliance with Chapter 3.24 of this Code
2. The property has outstanding code enforcement violations.
3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
5. The owner has failed to amend an application as required by Section 17.55.010(G).
6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this Chapter.
7. The property has received more than two citations for violations of the City's noise ordinance within a period of 12 consecutive months.
8. Failure to comply with Section 17.55.020(C)
9. Failure to comply with the requirements of Section 17.55.040
10. A holder of a Primary Resident Permit receives a total of three (3) citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months, or a holder of a Non-Primary Resident Permit or Multifamily Permit receives a total of two (2) citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months:

a. The requirements of Sections 17.55.020(A) (3), (4), (7), (8), (9), 17.55.040, regulations propounded by the City Manager per Section 17.55.010(L), or violation of any condition or requirement of the short-term rental permit.

17.55.040 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Primary Resident Permit. A primary resident owner may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. Multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that primary resident owners of condominiums may obtain this type of permit for the unit where he or she has established his or her primary residence.

B. Non-Primary Resident Permit. An owner may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid even if the permitted location is not the owner's primary residence. Property subject to this type of permit may only be rented on a short-term basis during the period between April 1 and September 30 each year. Multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that owners of condominiums may obtain this type of permit.

C. Multifamily Permit. Owners of entire multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two (2) units in the building so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

17.55.050 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.060 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant nor for that location for a twelve (12) month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(10), (3) more than two (2) citations for violation of the City's noise ordinance in a period of twelve (12) consecutive months, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other

penalty) result in the property and applicant being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.

D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.070 Appeals.

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.
D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 Hosting platform responsibilities.

A. Hosting platforms shall be responsible for collecting all applicable transient occupancy tax and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of transient occupancy tax collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the transient occupancy tax the hosting platform failed to collect and/or remit to the City.
B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.
C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.
D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to an unpermitted short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.
E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C) and (D) above, shall be presumed to be in

compliance with this Chapter. If technical issues pose a substantial obstacle to compliance with this Section, a hosting platform may also satisfy these obligations pursuant to a compliance agreement with the City that prevents booking transactions for unpermitted short-term rentals, collects all transient occupancy tax due, and complies with the disclosure requirements of this Section.

F. The provisions of this Section 17.55.080 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.090 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, or twice the advertised short-term rental's daily rental rate per day or violation, whichever is higher.

B. The short-term rental permit holder shall be held responsible for violations of the municipal code committed by guests at the property.

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 3. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be prior to or concurrent with the application for a short-term rental permit. An operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 4. Zoning Text Amendment Findings.

The City Council 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

SECTION 5. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 7. Effectiveness.

This Ordinance will become effective on January 15, 2021, following its passage and adoption.

SECTION 8. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2020.

_____
MIKKE PIERSON, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

_____
CHRISTI HOGIN, City Attorney

STATE OF CALIFORNIA -- NATURAL RESOURCES AGENCY
EDMUND G. BROWN, JR., *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



September 20, 2018

Bonnie Blue, Planning Director
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Subject: Short-term Rental Ordinance

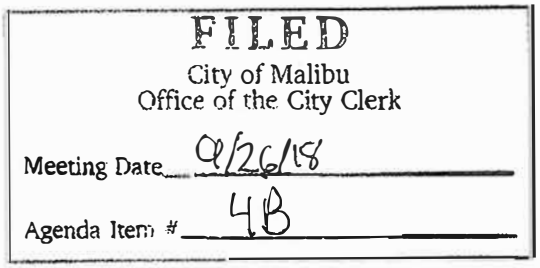
Dear Ms. Blue:

Commission staff has reviewed the September 6, 2018 staff report regarding the subject proposed Malibu Municipal Code (MMC) amendment to establish provisions to regulate short-term rental of property citywide that is scheduled to be considered by the Malibu City Council at its September 26, 2018 hearing. We appreciate the opportunity to provide the following comments.

Based on a review of the draft ordinance language and the City's staff report, it is Commission staff's understanding that the City is considering the adoption of a ordinance that would allow for the continuance of short-term rental of residential property in single-family homes in the City and allow for the rental of a maximum of two units per multifamily apartment property within the City; would create a new permitting system where the owner of a short-term rental property must possess a valid Short-Term Rental Permit (STR Permit) and Onsite Wastewater Treatment System Operating Permit; establish limits on the number of operating permits a natural person may be issued; requirements regarding onsite parking; and enforcement protocols.

Commission staff views the City's proposed amendment as a supportable effort to provide for some regulatory controls and management provisions for short term rentals. However, we believe that vacation rental regulations in the coastal zone must occur within the context of the City's LCP. We encourage the City to submit an LCP amendment to the Commission that includes policies and provisions that reflects the subject MMC amendment regarding short-term rentals. We are happy to coordinate with City Staff and provide comments on specific LCP amendment language once it is developed.

Thank you for your attention to this matter. We appreciate the City's consideration of our comments. Please feel free to contact me if you have any questions.



Sincerely,

Denise Venegas

Denise Venegas
Coastal Program Analyst

cc: Reva Feldman, City Manager, City of Malibu

CC: Council; CM; CA; PL; Ref. Binder; Original 86 9/26/18 Agenda File

ATTACHMENT 2

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, August 10, 2020, at 6:30 p.m.** on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order (revised July 1, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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 citycouncil@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 by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

ZONING TEXT AMENDMENT No. 17-002 (Short-term Rental Ordinance) – On December 3, 2019, City Council considered Zoning Text Amendment (ZTA) No. 17-002, an ordinance to regulate the short-term rental (30 days or less) of residential property, prepared by staff based on extensive Council direction provided at prior public hearings. These hearings occurred after the Planning Commission considered the ZTA at its meetings on November 20, 2017 and May 7, 2018. The Council did not move forward with ZTA No. 17-002 at that time, but did initiate a new Local Coastal Program Amendment (LCPA) and ZTA to consider a regulatory system similar to that adopted by the city of Santa Monica. On June 22, 2020, Council directed staff to return with an update of ZTA No. 17-002, which imposes rules, regulations and limitations on the short term rental of property in the city, including both single-family residential and multifamily property. The new LCPA and ZTA to consider a regulatory system similar to that adopted by the city of Santa Monica will still proceed forward as well, and would supersede ZTA No. 17-002 if adopted.

Thus at its August 10, 2020, meeting, the City Council will consider ZTA No. 17-002 which includes, but is not limited to, provisions for a short-term rental permitting system with application requirements for property owners, property owner responsibilities to respond and correct problems, limitations on the short term rental of property and penalties for violations. All full chronology of the City's consideration of short-term rental regulations, prior staff reports and documents can be found on the City's Short-term Rental website at malibucity.org/STR.

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Justine Kendall, Associate Planner (310) 456-2489, extension 301

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

A written staff report will be available at or before the hearing. All persons wishing to address the City Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents can be reviewed by any interested person by contacting the Case Planner during regular business hours. Oral and written comments may be presented to the City Council on, or before, the date of the meeting.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Justine Kendall, at (310) 456-2489, extension 301.

_____

Bonnie Blue, Planning Director

Publish Date: July 16, 2020

Kathleen Stecko

Subject: Planning Commission - Wed, July 29th Meeting Agenda & Notice of Availability of LCPA Materials - Short-Term Rentals
Attachments: Preliminary CCC Comments 7.29.20_Exhibit A - LCPA rev.docx.PDF.pdf

From: Venegas, Denise@Coastal <Denise.Venegas@coastal.ca.gov>
Sent: Wednesday, July 29, 2020 11:23 AM
To: Bonnie Blue <bblue@malibucity.org>
Cc: Christensen, Deanna@Coastal <Deanna.Christensen@coastal.ca.gov>
Subject: RE: Planning Commission - Wed, July 29th Meeting Agenda & Notice of Availability of LCPA Materials - Short-Term Rentals

Hi Bonnie –

Thanks for providing us the opportunity to review and provide comments on the City's LCP Amendment for STRs. Please see the attached preliminary comments and edits to the City's draft STR ordinance. Please let me know if you have any questions.

Thanks,
Denise

Denise Venegas
Coastal Program Analyst
California Coastal Commission
South Central Coast District
89 South California Street, Suite 200
Ventura, CA 93001
Denise.Venegas@coastal.ca.gov | (805) 585-1800

EXHIBIT 6

EXHIBIT A

LOCAL COASTAL PROGRAM AMENDMENT

A. Land Use Plan (LUP) Chapter 5 (New Development), Section C (Land Use Policies), Subsection 2 (Land Use Designations) is hereby amended to read as follows:

RURAL RESIDENTIAL (RR): The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City. The following maximum residential density standards shall apply:

RR1	One dwelling unit per acre
RR2	One dwelling unit per 2 acres
RR5	One dwelling unit per 5 acres
RR10	One dwelling units per 10 acres
RR20	One dwelling unit per 20 acres
RR40	One dwelling unit per 40 acres

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MOBILE HOME RESIDENTIAL (MHR): The MHR designation is intended to accommodate existing mobile home parks and associated facilities. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MULTI-FAMILY RESIDENTIAL (MF): The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted. Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City, up to a maximum of two dwelling units per parcel.

B. LUP Policy 5.20 is amended to read as follows:

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

C. LUP Policy 2.34 is amended to read as follows:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

D. Local Implementation Plan (LIP) Section 2.1 is amended by adding the following definitions, inserted in alphabetical order, or replacing where there is an existing definition:

DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is authorized by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and

B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and

C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling ~~unless permitted pursuant to a valid short-term rental permit issued by the City~~. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

E. LIP Section 3.3(Q) Planned Development (PD) Zone is amended to read as follows:

Q. Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development, consistent with the PD Land Use Designation in chapter 5 (Section C.2) of the Land Use Plan consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcel Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018, known as Malibu Coast Estate, and formerly known as the "Crummer Trust" parcel.

3

Commented [CCC1]: It's not clear if the proposed language is meant to exempt the requirement for containing no kitchens or to not be rented or otherwise used as a separate dwelling.

We recommend these revisions to clarify the intent of the proposed amendment which is to allow guest houses to be used as STRs pursuant to a STR permit.

2. Permitted Uses

The uses and structures permitted in Malibu Coast Estate are as follows. Lot numbers are as identified on the "Malibu Coast Estate Planned Development Map 1" of this LIP.

a. Lot Nos. 1—5

i. One single-family residence per lot.
ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
iii. Domestic animals, kept as pets.
iv. Landscaping.
v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

…

F. LIP Section 13.4.9.1 is added to Chapter 13 (Coastal Development Permits):

13.4.9.1 Exemption for Short-term Rental of Residential Property

Short-term rental use of residential property as defined in Section 2.1 of this LIP and which meet all of the following criteria.

A. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.
B. The short-term rental use is conducted in a dwelling unit that was lawfully established as described in LIP Section 13.3(F).
C. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

Commented [CCC2]: Since short-term rental use of residential property is not a category of exemption but more of a use that is not considered development, we recommend moving this section outside of LIP Chapter 13.4 (Exemptions) and into another LIP Chapter.

G. LIP Table B – Permitted Uses is amended by inserting the following new permit type and uses:

LIP Table B – Permitted Uses

KEY TO TABLE (In addition to a coastal development permit, ~~the following~~ MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	**Permitted use**
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**

Commented [CCC3]: Not certified language. Needs to be updated to reflect certified LCP Amendment No. LCP-4-MAL-13-0241-1 (Affordable Housing/Reasonable Accommodations) as shown here. We also recommend adding STR here.

CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility
STR	Use requires valid short-term rental permit approved by the City
-	Not permitted (Prohibited)

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Single-family esidential	P	P	P	P	-	-	-	-	-	-	-	-	-	A	-	-
Manufactured homes	P	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-
Multiple-family esidential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments)	-	-	CUP	CUP	-	-	-	-	-	-	-	-	-	-	-	-
Second units	A[1]	A[1]	A[1]	A[1]	-	-	-	-	-	-	-	-	-	-	-	-
Mobile home parks	-	-	-	-	P	-	-	-	-	-	-	-	-	-	-	-
Mobile home park accessory uses (including recreation facilities, meeting ooms, management offices, storage/maintenance buildings, and other similar uses)	-	-	-	-	CUP	-	-	-	-	-	-	-	-	-	-	-
Mobile home as esidence during construction	P	P	P	MCUP	-	-	-	-	-	-	-	-	-	-	-	-
Accessory uses (guest units, garages, barns, pool houses,	A[1]	A[1]	A[1]	A[1]	-	-	-	-	-	-	-	-	-	-	-	-

pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)																
Residential care facilities (serving 6 or fewer persons)	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-
Small family day care (serving 6 or fewer persons)	A	A	A	-	-	-	-	-	-	-	-	-	-	-	-	-
USE	**RR**	**SF**	**MF**	**MFBF**	**MHR**	**CR**	**BPO**	**CN**	**CC**	**CV-1**	**CV-2**	**CG**	**OS**	**I**	**PRF**	**RVP**
RESIDENTIAL (continued)																
Large family day care (serving 7 to 12 persons)	LFDC	LFDC	LFDC	-	-	-	-	-	-	-	-	-	-	-	-	-
Home occupations	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	-	-	-	-	-	-	-	-	-	-	-	-
Short-term rental	STR[21]	STR[21]	STR[22]	STR[22]	STR[21]	-	-	-	-	-	-	-	-	-	-	-
...																

Notes:

1 Subject to Residential Development Standards (Section 3 6)
2 Subject to Home Occupations Standards [(Section 3 6(O)]
3 Use Prohibited in Environmentally Sensitive Habitat Areas
4 This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use This floor area requirement shall not apply to the Civic Center Wastewater Treatment Facility
5 CUP for veterinary hospitals
6 Maximum interior occupancy of 125 persons
7 If exceeding interior occupancy of 125 persons
8 By hand only
9 Use permitted only if available to general public
10 Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building
11 Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Sections 4 6 2 and 6 5(G)
12 Limited to public agency use only (not for private use)
13 Accessory uses when part of an educational or non-profit (non-commercial) use However, residential care facilities for the elderly are limited to operation by a non-profit only
14 CUP for facilities within a side or rear yard when adjacent to a residentially-zoned parcel
15 Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including, but not limited to, injection wells, generators, and pump stations

7

16 This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with the existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility
17 Transitional and supportive housing is permitted in the same manner as one single family residence and is subject to all the restrictions that apply to single family residential uses
18 Transitional and supportive housing is permitted in the same manner as a multi-family residential use and is subject to all the restrictions that apply to multi-family residential uses
19 Multi-family development associated with an affordable housing development project is permitted by right
20 Multi-family development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3 4 5
21 Hosted short-term rental only in RR, SF and MHR zones
22 Maximum of two dwelling units per parcel for MF and MFBF zones

7

Patricia Salazar

Subject: FW: ST Rental Ordinace

From: Robert Greene <
Sent: Thursday, August 20, 2020 12:32 PM
To: City Council <citycouncil@malibucity.org>
Subject: ST Rental Ordinace

To members of the City Council:

I along with my 2 sisters are owners of a property on Malibu road. We have owned this property since the eighties and have had a property in Malibu since the 40's !
While on the one hand being extremely fortunate to own such a beautiful property, the property taxes, maintenance and ongoing upkeep run into the thousands of dollars annually. We have been able to maintain the residence with rental income we have been deriving from long term rentals the last several years. Going forward we may go back to shorter term rentals. When we offered our property for short term rentals we adhered to very strict guidelines, and rental agreements, list of house rules that had to be signed off on, we paid the non occupancy tax, registered with the City, and had no complaints from neighbors. I submit the issues with short term rentals in my opinion has been caused by a few individuals that disregarded guidelines , disregarded neighbors, were MIA with regards to supervising tenants, and operated without any regard to others. I submit for all owners to be unduly penalized- limiting their rental income, mandating an on site host which is impossible in many instances, is not equitable or workable. I question the need for this ordinance ! I highly recommend a strict licensing system which would work much better where people could lose licenses for not adhering to strict guidelines. I question the City of Malibu and short term rental ordinance's ability to police, manage, oversee rentals in Malibu .
I have rented residence properties all around the world for my family to stay in and to eliminate that short term rental option for families desiring to rent a residence in Malibu is a bad and short sighted idea
I truly question the motivation of the City Council regarding this contemplated rental ordinance. This is not a one size fits all solution. Please reconsider not moving forward with an interim short term rental ordinance or a final short term rental ordinance

Thank you

R Greene et al

EXHIBIT 7

Patricia Salazar

Subject: FW: Airbnb Dumps Malibu Party House | Malibu, CA Patch

Begin forwarded message:

From: JOANNE GARY <
Date: August 25, 2020 at 11:31:16 AM PDT
To: Mikke Pierson <mpierson@malibucity.org>
Cc: Paul Wolf < Joey Goodman < John Mazza < Steve Uhring < Reva Feldman <rfeldman@malibucity.org>, Rick Mullen <rmullen@malibucity.org>, Douglas Cleavenger <dcleavenger@malibucity.org>, Michael Cerveny < Jefferson Wagner <jwagner@malibucity.org>, Michael Lustic <
Subject: Airbnb Dumps Malibu Party House | Malibu, CA Patch

Mayor Mikke,

Of course, I am wishing this is 3833. Also hoping, it's just not for 30 days.

All of last week rented out: for 3 days to a group who invited friends continually for dinner parties; next a group of a dozen scary men in white tee shirts and my family and I could not hear TV, and police came but the men immediately started whispering; next a group of about 30 people for a gender reveal. The gender reveal people stated that they had rented directly from the owner. Did you get your money?

My son had no parking. Our family continues to be unsafe. So many strangers and so many cars.

As Mr. Mullens predicted the corporation will find other platforms.

We need parking permits on the hill to protect us from strangers. To continue owner occupied STRs visitors' cars should have a clearly visible permit. In our neighborhood 14 people with 7 cars is not an acceptable ordinance.

Yours truly,
Joanne Gary

https://patch.com/california/malibu/airbnb-dumps-malibu-party-house

Sent from my iPad

Patricia Salazar

Subject: FW: EVERYONE SEEMS TO BE DOING FASTER THAN STALL TACTICS BEING USED IN MALIBU WHY

From: Michael Lustig < >
Sent: Wednesday, September 2, 2020 12:44 PM
To: John Mazza <
Cc: Paul Wolf, Reva Feldman <rfeldman@malibucity.org>; Joey Goodman, Joanne Gary < Mikke Pierson <mpierson@malibucity.org>; Douglas Cleavenger <dcleavenger@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; City Council <citycouncil@malibucity.org>
Subject: Re: EVERYONE SEEMS TO BE DOING FASTER THAN STALL TACTICS BEING USED IN MALIBU WHY

Attachments available until Oct 2, 2020

Oh John! Weren't you listening at the last hearing?

Reva said the City will not hire staff to administer or enforce the STR Ordinance. (Video attached)

Reva hired and paid Host Compliance $45,000 a year to to develop the City's permitting system as well as a number of other prepatory tasks to set up for enforcement of the ordinance.

And guess what?

Host Compliance didn't do a thing, . . other than come to PC and Council to lie about how many and how fast STRs were growing.

When we did a FOIA request for information about how much of the "Scope of Work" from the Host Compliance contract had been completed - **the answer was ZERO**. Which came attached to another document showing staff making up lies in response to my request.

Sorry Pal, City Manager has no plan to serve the people.

It's all BS until this queen is brought to heal.

Best,

M

Click to Download
Reva_No_Enforcement.mp4
649.2 MB

Click to Download
RE_ FOIA Request for Copies of Host Compliance Reports.eml
71 KB

Click to Download

On Sep 2, 2020, at 12:21 PM, John Mazza <res02igz@gte.net> wrote:

> Planning director Vince Bertoni (LA) knows Malibu well and was in our planning department. for quite a while. It would be a good idea to either hire him as a consultant or at least ask for his comments on Malibu.
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> Enforcement is the key. That will be our big problem.
>
> John Mazza

-----Original Message-----
From: Paul Wol[redacted]
To: Reva Feldman <rfeldman@malibucity.org>; John Mazza [redacted]; Joey Goodman [redacted]; JOANNE GARY [redacted]; Michael Lustig <michael@letsregulate.com>; Mikke Pierson <mpierson@malibucity.org>; Michael Lustig [redacted]; Douglas Cleavenger <dcleavenger@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; citycouncil@malibucity.org <citycouncil@malibucity.org>
Sent: Wed, Sep 2, 2020 10:40 am
Subject: EVERYONE SEEMS TO BE DOING FASTER THAN STALL TACTICS BEING USED IN MALIBU WHY

Nearly a year after city officials announced they would start holding Airbnb to a strict set of regulations to protect the housing market, L.A. and the rental platform have finally launched a system they say will make it easier to seek out and remove listings that don't adhere to the rules.

Planning department spokesman Yeghig Keshishian said the new system "will significantly streamline the process for identifying and taking down illegal short-term-rental listings," the *Los Angeles Times* reports. "In many ways, it's the missing piece to the puzzle."

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recent estimate by the city, however, found that more than 6,000 listings on Airbnb were out of compliance.

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Tenants and neighborhood advocates had complained about long delays in enforcement and of a loophole in the rules that forced Airbnb to eliminate listings the city deemed "categorically ineligible" while allowing other illegal listings to remain until the new system was in place.

Emails published by the *Times* show that city staffers were also frustrated with the delays, with one city planner telling the company, "management is extremely dissatisfied with their progress… and strongly questions Airbnb's sincerity to completing the project," while another planner complained in May that, "Airbnb's commitment of sufficient resources to this task did not begin in a timely manner."

Airbnb countered that the company had suffered layoffs that had impacted the team working on the system, and that the city was slow to provide it with information about city guidelines that would help the company design the new system—guidelines that weren't even approved until last fall, months after the ordinance went into effect.

Although Airbnb announced it was launching the new system in June, Mayor Garcetti put those plans on hold until he could see an assessment of how the crackdown would affect city revenue.

Planning director Vince Bertoni warned a Garcetti aide in July that the delays would "significantly limit" enforcement, and noted that implementing the new regulations would help cut down on so-called "party houses" that Garcetti has gone after as a health hazard during the pandemic.

Garcetti spokesman Alex Comisar told the *Times* that once the the revenue report was reviewed by finance officials last week, “we immediately gave them approval to move forward with implementation.”

Patricia Salazar

Subject: FW: EVERYONE SEEMS TO BE DOING FASTER THAN STALL TACTICS BEING USED IN MALIBU WHY

From: Michael Lustig <
Sent: Wednesday, September 2, 2020 12:06 PM
To: Paul Wolf <
Cc: Reva Feldman <rfeldman@malibucity.org>; John Mazza < Joey Goodman < Joanne Gary < Mikke Pierson <mpierson@malibucity.org>; Douglas Cleavenger <dcleavenger@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; City Council <citycouncil@malibucity.org>
Subject: Re: EVERYONE SEEMS TO BE DOING FASTER THAN STALL TACTICS BEING USED IN MALIBU WHY

Attachment available until Oct 2, 2020
Paul,

The speed of government is slow. The tech sector knows this and that's why they break existing laws and make up banal and twisted excuses like, "We're not hotels were something else, we're just helping people make a little extra money to stay in their homes."

It's always been a lie. Whole unit rentals have always been the business. They are incredibly lucrative and the existence of one creates the demand for all the rest. Requiring the host to be on site is the only thing that solves the problems and mitigates the nuisances.

In any city where an ordinance takes more than 15 months you will find that Staff has been co-opted by Airbnb. . This is what happened in Malibu. This is why for two and a half years we fought to kill the draft ZTA that was written by Airbnb.

The video below includes audio recorded at a public Airbnb Clinic in 2018. The primary voice you will hear is Connie Llanos for campaign leader for Airbnb Socal. At these clinics Airbnb, coaches the mom and pops, to write emotive speeches that divide communities by taking the focus off of the important provisions that curtail and restrict STRs. The goal is obfuscate the whole unit commercial operators, and keep you talking about parking and parties and trash.

The important quote in this is this, *"I think there's a couple of things like we talked about the revenue. The city is under the council.* ***The staff know the value of our revenue, which is why they've consistently tried to come up things that are not as restrictive as the councils asked them to."***

It explains why Ms. Feldman is more loyal to Airbnb than she is to residents. She will use any convenient excuse to delay the draft ordinances because whether it's 7 months (Refused to write PC's changes), 13 months (Fire) or 10 month (Covid); Council will forget the details and the public discourse will return to square one and the the nuisances.

Even though the residents have now prevailed in shutting down the crap Airbnb draft, it only causes a delay and while it may save the city from a bad ordinance it is actually a win for Airbnb because a delay means there is still no law. Even after Council voted 5-0 in favor of the best most enforceable rules you can get.

It's called death by incrementalism, it was one of the oldest tricks in the book. It's time for Malibu to stop falling for it. It's time for Council to buck up. It's time for Reva and her staff to capitulate on this issue.

Paul, Joanne and Joey, I am retired from this fight for health reasons. You will not win it by seeking only remedy for yourselves. You must take it to the HOA's and the residents. You must try to win it for all of all of Malibu and I can help you.

Beginning in the Summer of 2017 through the present I have a kept detailed files. I happy to give you a timeline, documents, transcripts and emails that clearly detail how the City Manager has acted in direct opposition and flagrant conflict with several of the City Policies and the primary interests of residents.

My evidence doesn't show bribery. But without any doubt it details the kind of "Fuckery" that will have residents storming City Hall demanding MS. Feldman's ouster.

Good Luck, and let me know if you really want to solve the problem.

Best,

Michael Lustig

Click to Download

Connie LLanos Airbnb Leader at Malibu Clinic Sept2018.mp4
49.5 MB

On Sep 2, 2020, at 10:40 AM, Paul Wolf [redacted] > wrote:

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Patricia Salazar

Subject: FW: EVERYONE SEEMS TO BE DOING FASTER THAN STALL TACTICS BEING USED IN MALIBU WHY

From: John Mazza
Sent: Wednesday, September 2, 2020 12:21 PM
To: Paul Wolf, Reva Feldman <rfeldman@malibucity.org>; Joey Goodman, Joanna Gary, >; Michael Lustig< Mikke Pierson <mpierson@malibucity.org>; Douglas Cleavenger <dcleavenger@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; City Council <citycouncil@malibucity.org>
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To: Reva Feldman <rfeldman@malibucity.org>; John Mazza < Joey Goodman < JOANNE GARY < Michael Lustig < Mikke Pierson <mpierson@malibucity.org>; Michael Lustig < Douglas Cleavenger <dcleavenger@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; citycouncil@malibucity.org <citycouncil@malibucity.org>
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Patricia Salazar

Subject: FW: Next Short Term Rental Meeting

From: Karen Farrer <kfarrer@malibucity.org>
Sent: Wednesday, August 26, 2020 12:17 PM
To: Heather Glaser <hglaser@malibucity.org>
Subject: Fwd: Next Short Term Rental Meeting

Karen Farrer

Councilmember
City of Malibu

Begin forwarded message:

From: <Lynn Norton
Subject: Re: Next Short Term Rental Meeting
Date: August 26, 2020 at 12:05:00 PM PDT
To: <jwagner@malibucity.org>, <SPeak@malibucity.org>, <RMullen@malibucity.org>, <MPierson@malibucity.org>, <kfarrer@malibucity.org>
Cc: "Bonnie Blue" <BBlue@malibucity.org>, "Trevor Rusin" <trevor.rusin@bbklaw.com>

Dear City Council Members,

I hope you share my feeling of the importance of learning as much as we can from Coastal prior to the September Malibu City Council meeting on short term rentals. It will be good to know that THIS City Council has the issue pretty much on auto-pilot and that we can feel confident after the September meeting about a Hosted STR ordinance being timely implemented.

Voting for the ordinance without having an impassioned plan and effort to get it through Coastal, will not actually change anything.

If we can feel confident about getting through Coastal in 8 or 9 months with the Hosted STR ordinance, then we can begin the grace period for phasing out STR???s as soon as you pass an ordinance in September. Then we will really have success.

I hope Coastal will be asked to take a look at the final proposed ordinance that just went through the Malibu Planning Commission, and to write a letter saying they approve of the general concept; and asked what we can do to expedite the process of going through Coastal.

I also hope City Council members who feel strongly about this STR issue will get involved as stakeholders in the persuasive efforts with Coastal. If Malibu staff gets told it will take two years to get to Coastal, some of you should be in on that conversation and do your best to get a better answer.

Here are some good arguments for negotiations with Coastal:

??? STR???s that have no primary resident are affecting our housing stock at a time when the state is making an urgent push for municipalities to increase housing stock.
???

When people rent their entire house as an STR the prices are very high; therefore the Hosted STR ordinance would not be removing vacation rentals that provide beach access to low-income families.
???

Fall on your sword by letting Coastal know that it was always Malibu???s intention, as spelled out in our certified LCP, to disallow hotel usage in all but commercial zones, and that only because of greed and oblivion did the city start collecting TOT and neglect enforcement, and that now we are in a pickle that the current City Council would like to fix before there is a new City Council. We really just want to reassert what was already certified.
???

Full time STR???s are making neighborhoods less neighborly. And affecting school enrollment.

Thanks for all your work on this !

Lynn Norton

Patricia Salazar

Subject: FW: An STR request!

From: Anne Ready
Sent: Friday, August 21, 2020 8:50 AM
To: City Council <citycouncil@malibucity.org>
Subject: An STR request!

Dear City Council,

We've been successfully conducting STR's for nearly a decade with quiet and respectful guests paying thousands of dollars per quarter in revenues to the city and local businesses.

The secret, of course, to successful Short Term Rentals is owners carefully vetting guests beforehand to determine their numbers, ages, relationships and plans including non-smoking to protect our beaches, etc.

No guest wants an onsite babysitter and no Malibu homeowner should be burdened with that obligation.

Please just punish the bad apples and keep revenues coming into the city and local businesses with our carefully selected and vetted guests.

Thank you,

Anne Ready

Patricia Salazar

Subject: FW: EVERYONE SEEMS TO BE DOING FASTER THAN STALL TACTICS BEING USED IN MALIBU WHY

From: Paul Wolf <
Sent: Wednesday, September 2, 2020 10:40 AM
To: Reva Feldman <rfeldman@malibucity.org>; John Mazza; Joey Goodman; JOANNE GARY >; Michael Lustig >; Mikke Pierson <mpierson@malibucity.org>; Michael Lustig ; Douglas Cleavenger <dcleavenger@malibucity.org>; Jefferson Wagner >; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; City Council <citycouncil@malibucity.org>
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Patricia Salazar

From: joey goodman [redacted]
Sent: Friday, August 21, 2020 10:28 AM
To: Douglas Cleavenger; Rick Mullen
Cc: Karen Farrer; Reva Feldman; Mikke Pierson
Subject: 3833 Paseo Hidalgo
Attachments: 908efa18-df15-42a6-996e-28e1cb671d60.mp4

Just a sample of this ongoing unacceptable behavior

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, August 10, 2020, at 6:30 p.m.** on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order (revised July 1, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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 citycouncil@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 by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

ZONING TEXT AMENDMENT No. 17-002 (Short-term Rental Ordinance) – On December 3, 2019, City Council considered Zoning Text Amendment (ZTA) No. 17-002, an ordinance to regulate the short-term rental (30 days or less) of residential property, prepared by staff based on extensive Council direction provided at prior public hearings. These hearings occurred after the Planning Commission considered the ZTA at its meetings on November 20, 2017 and May 7, 2018. The Council did not move forward with ZTA No. 17-002 at that time, but did initiate a new Local Coastal Program Amendment (LCPA) and ZTA to consider a regulatory system similar to that adopted by the city of Santa Monica. On June 22, 2020, Council directed staff to return with an update of ZTA No. 17-002, which imposes rules, regulations and limitations on the short term rental of property in the city, including both single-family residential and multifamily property. The new LCPA and ZTA to consider a regulatory system similar to that adopted by the city of Santa Monica will still proceed forward as well, and would supersede ZTA No. 17-002 if adopted.

Thus at its August 10, 2020, meeting, the City Council will consider ZTA No. 17-002 which includes, but is not limited to, provisions for a short-term rental permitting system with application requirements for property owners, property owner responsibilities to respond and correct problems, limitations on the short term rental of property and penalties for violations. All full chronology of the City's consideration of short-term rental regulations, prior staff reports and documents can be found on the City's Short-term Rental website at malibucity.org/STR.

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Justine Kendall, Associate Planner (310) 456-2489, extension 301

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

A written staff report will be available at or before the hearing. All persons wishing to address the City Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents can be reviewed by any interested person by contacting the Case Planner during regular business hours. Oral and written comments may be presented to the City Council on, or before, the date of the meeting.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Justine Kendall, at (310) 456-2489, extension 301.

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Bonnie Blue, Planning Director

Publish Date: July 16, 2020

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, September 14, 2020, at 6:30 p.m.** on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order (revised July 31, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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 citycouncil@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 by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003, ZONING TEXT AMENDMENTS NO. 19-005 and 17-002 – On July 29, 2020, the Planning Commission considered an amendment to the Local Coastal Program (LCPA) and to Title 17 (Zoning) of the Malibu Municipal Code, specifically LCPA No. 19-003 and ZTA No. 19-005, regulating the rental of residential units for 30 days or less (short-term rentals) which included, but was not limited to, amendments similar to those implemented in the City of Santa Monica including requiring the presence of an onsite host during short-term rentals, other restrictions, and clarifying permitted uses related to the short-term rental of residential property.

On August 10, 2020, the City Council held a public hearing to consider Zoning Text Amendment (ZTA) No. 17-002, which was designed to put short-term rental regulatory measures in place without changing the uses allowed in the City. ZTA No. 17-002 would be superseded by LCPA No. 19-003 and ZTA No. 19-005 after approval by City Council and upon LCPA No. 19-003 being certified by the California Coastal Commission and going into effect.

A public hearing on all of these items will be held by the City Council on September 14, 2020. This will include, but is not limited to, staff presentations on: 1) ZTA No. 17-002, as presented and discussed on August 10, 2020, 2) a revised/pared down version of ZTA No. 17-002 that focuses on providing enforcement tools against nuisance properties, and 3) LCPA No. 19-003/ZTA No. 19-005, and the Planning Commission's recommendations thereon, which include, but is not limited to, requiring an onsite host during the short-term rental of property.

The City's STR webpage has the full background and latest information on this topic: https://www.malibucity.org/str.

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Justine Kendall, Associate Planner (310) 456-2489, extension 301

The draft ordinances were assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft ordinances are exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained therein would not have the potential for causing a significant effect on the environment.

A written staff report will be available at or before the hearing. All persons wishing to address the City Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents can be reviewed by any interested person by contacting the Case Planner during regular business hours. Oral and written comments may be presented to the City Council on, or before, the date of the meeting.

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If there are any questions regarding this notice, please contact Justine Kendall, at (310) 456-2489, extension 301.

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Bonnie Blue, Planning Director

Publish Date: August 20, 2020



Short-Term Rental Regulations

Public Hearing, September 14

Short-Term Rental Regulations

Three Regulatory Options Under Consideration

Hosted Ordinance
Ord. No. 472
Reso No. 20-51
(LCPA 19-003 & ZTA 19-005)

Enforcement Ordinance
Revised
Ord. No. 486
ZTA 17-002

August 10 Ordinance
Originally Presented 8/10
Ord. No. 486
ZTA 17-002



The Hosted Ordinance proposes to regulate the short-term rental of residential property similar to the Santa Monica Home-Sharing Ordinance with modifications to address unique Malibu conditions

Malibu and Santa Monica STR Ordinances

Same Regulatory Framework With Some Key Differences

- Hosted STR vs. Home-Share
- Owner or Designated Operator as Host
- Proof of Primary Residency
- Multifamily Rentals
- Eligible Permit Applicants
- Neighborhood Notifications

Short-Term Rental Ordinance

Hosted Ordinance Permit System

Two Distinct Permit Types

Hosted STR

- SFR Owner's Primary Residence
- Owner or Designated Operator lives on site
- Physically on site between 8 pm and 6 am

Multifamily STR

- MF Property Owner
- Not required to live on site
- Rent up to two units as STRs

Hosted Ordinance

STR Permit General Provisions

- Annual permits for all STRs
- Natural person/owner
- 24/7 property contact
- Maximum occupancy
- Neighborhood Notification
- Compliance with all municipal and fire codes
- OWTS Permit
- Advertisement Requirements
- Fine structure
- Cause for denial or revocation of permits

Hosting Platform Liability

Based on the Santa Monica Home-Sharing Ordinance

A. Collect and remit Transient Occupancy Tax

B. Disclose STR information to the City on a regular basis

C. Prohibited from completing any booking transaction for a STR that is not on the City's approved STR registry

D. Prohibited from collecting or receiving a fee for facilitating or providing services ancillary to an unpermitted STR

E. Safe harbor provision

Hosting Platform Liability

Proposed Text Changes to Safe Harbor Provision

Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C) and (D) above, shall be presumed to be in compliance with this Chapter. ~~and shall not be found in violation of Section 17.55.080~~. If technical issues pose a substantial obstacle to compliance with this Section, a hosting platform may also satisfy these obligations pursuant to a compliance agreement with the City that prevents booking transactions for unpermitted short-term rentals, collects all transient occupancy tax due, and complies with the disclosure requirements of this Section.

Additional Text Changes

Proposed for both Hosted and Enforcement Ordinances

No Transfer or Assignment
Delete 17.55.020(J) from Hosted Ordinance and 17.55.010(H) from Enforcement Ordinance
“No Transfer or Assignment. As short-term rental permit may not be assigned or transferred to another person.”

Access to Property
Add “in compliance with federal and state law” to 17.55.010(A)(11) in Hosted Ordinance and 17.55.020(A)(6) of the Enforcement Ordinance

Proposed Local Coastal Program Amendment

Summary of LCPA

The LCPA serves to memorialize the permitted short-term rental uses specified in the ZTA. The details of the STR permitting regulations are not included to allow for them to be adjusted from time to time as needed.

Proposed Enforcement Ordinance

Revised Per Council's Direction from the August 10 Public Hearing

- Focuses on providing enforcement tools
- Addresses STR nuisance issues without changing uses currently allowed in the City
- Designed be implemented immediately*

  **proposed to be effective January 15, 2021*
- Intended to superseded by the City's Hosted Ordinance

Enforcement Ordinance

Highlights of Revised Ord. No. 468 and ZTA 17-002

- Annual permits for all STRs
- Natural person/owner
- 24/7 property contact
- Maximum occupancy
- Neighborhood Notification
- Compliance with all municipal and fire codes
- OWTS Permit
- Platform Liability
- Fine structure
- Cause for denial or revocation of permits

Short-Term Rental Regulations

Next Steps

Hosted Ordinance → LCPA Process → Final Adoption → Implementation

Enforcement Ordinance → Effective Jan. 15, 2021

Staff to return with additional enforcement options for Council consideration as part of the mid-year budget process

RECEIVED
Sep 14 2020
CITY CLERKS OFFICE
CITY OF MALIBU

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/14/2020
Agenda Item # 4A

September 12, 2020

Re: Item 4A -- Support for the adoption of Staff's proposed Enforcement Ordinance (Revised ZTA 17-002) and Hosted Ordinance No. 472

Dear Honorable Mayor and Councilmembers:

In short, I urge you to adopt the above-referenced ordinances as drafted by your staff. The Hosted Ordinance is a fair compromise that would preserve almost half of the apartments on Malibu Road as long-term rentals while at the same time provide much-needed visitor accommodations. Meanwhile, the interim Enforcement Ordinance will give Malibu the tools it needs to protect the neighbors of deplorable hosts.

During the last Council hearing, City Attorney Christi Hogan strongly encouraged the Councilmembers to adopt an interim ordinance with only enforcement provisions so as not to require approval from the Coastal Commission. Her concerns are underscored by a Los Angeles Superior Court ruling against the city of Manhattan Beach.

Manhattan Beach initially sought to amend its LCP with Coastal Commission approval back in 2015 and 2016. In 2016, the Chairman of the Coastal Commission issued a statement affirming that regulations on short-term rentals should be achieved through LCPs, which the Commission oversees. In 2017, Manhattan Beach withdrew its proposed LCP amendments from Coastal Commission consideration, and 2019 unilaterally enacted a ban with the rationale that it represented no real change — that short-term rentals had never been allowed under city code. Judge Chalfant rejected this argument. “The City may not avoid its duty to seek Commission approval of its STR ban in the coastal zone as an LCP amendment, and must refrain from enforcing these prohibitions in the coastal zone without the [Coastal] Commission’s approval,” Chalfant wrote in his ruling, issued in early July, 2020.

Staff's proposed Hosted Ordinance for your consideration represents a well-reasoned compromise that will provide benefits to property owners while maintaining diversity in the Malibu housing market. On Malibu Road for instance, there are 22 multi-family buildings that comprise 83 apartments. Allowing two STRs at each multi-family property would allow for a maximum of 44 STRs and a minimum of 39 long-term rentals. This is the housing diversity Malibu needs to satisfy most everyone concerned: long-term renters, property owners and visitors. Short-term rentals, especially multi-family units, provide much needed, less expensive alternatives to visitors.

In July, the Planning Commission voted to modify the number of STRs permitted in multi-family buildings from two per building to 40%. This does not treat all multi-family buildings equally: duplexes would not be permitted to have any STRs, three and four unit buildings would only be allowed one STR and 6-unit buildings would be allowed two STRs. **I urge you to vote in favor of two STRs per multi-family building as it treats all multi-family properties and their owners equally.** At the same time, it preserves approximately half of the apartments in Malibu as long-term rentals.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/2020 Agenda File

People who respect their neighbors should not be subjected to over-regulation meant to stop the problems created by a few bad actors. The interim Enforcement Ordinance and the Hosted Ordinance proposed by staff are a thoughtful response to what has clearly been a vexing problem for the City. Please do the right thing for the future of Malibu and approve these ordinances as drafted by Staff.

Best regards,

Andrew Gombiner



Kelsey Pettijohn

Subject: 9/14/2020 Council Meeting
Attachments: Malibu City Council speech 9.14.2020 2.rtf



From: Andrew Gombiner [redacted]
Sent: Monday, September 14, 2020 4:36 PM
To: Heather Glaser <hglaser@malibucity.org>
Subject: 9/14/2020 Council Meeting

Hi Heather,

Attached is the speech I will be giving at tonight's meeting.

Best regards,

Andrew Gombiner

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/14/20
Agenda Item # 4A

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/20 Agenda File

Good evening,

In short, I urge you to adopt the Enforcement Ordinance and Hosted Ordiance No. 472 as drafted by your staff. The Hosted Ordinance is a fair compromise that would preserve about half of the apartments in Malibu as long-term rentals while at the same time provide much-needed visitor accommodations. Meanwhile, the interim Enforcement Ordinance will give Malibu the tools it needs to protect the neighbors of deplorable hosts.

Christi Hogan has strongly encouraged an interim ordinance with only enforcement provisions so as not to require approval from the Coastal Commission. Her concerns are underscored by a recent Los Angeles Superior Court ruling against the city of Manhattan Beach.

In 2016, the Chairman of the Coastal Commission issued a statement affirming that regulations on short-term rentals should be achieved through LCPs. But in 2019, Manhattan Beach unilaterally enacted a ban with the rationale that it represented no real change — that short-term rentals had never been allowed under city code. In July 2020, Judge Chalfant rejected this argument and ruled “The City may not avoid its duty to seek Commission approval of its STR ban in the coastal zone as an LCP amendment, and must refrain from enforcing these prohibitions in the coastal zone without the Commission’s approval."

I also urge you adhere to Staff's recommendation of two STRs per multi-family building as it treats all multi-family properties and their owners equally. Applying a 40% limit does not treat multi-family buildings equally: duplexes would not be permitted to have any STRs, three and four unit buildings would only be allowed one and 10-unit buildings would be allowed four STRs. Here's another perspective: there is a 6-unit building at 22852 PCH that's about 5,100 s.f. and consists of eight bedrooms and 10 bathrooms. My building on Malibu Rd. is about 6,000 s.f. and consists of nine bedrooms and 11 bathrooms. Why should my larger building with more bedrooms and bathrooms only be allowed one STR and this other building be allowed two, simply because building is three units and the other is six units?

People who respect their neighbors should not be subjected to over-regulation meant to stop the problems created by a few bad actors. The interim Enforcement Ordinance and the Hosted Ordinance before you are a thoughtful response to what has clearly been a vexing problem for the City. Please do the right thing for the future of Malibu and approve these ordinances as drafted by Staff.

Thank you.



Please protect Short Term Rentals

Anne [redacted]

Sat 9/12/2020 2:59 PM

To: City Council <citycouncil@malibucity.org>

Dear City Council,

After 10 years of blissful Malibu residency, I had to follow my husband's career. But we still love to vacation there ourselves, which is why STR's are so important to us. We've been successfully conducting STR's for nearly a decade with quiet and respectful guests paying thousands of dollars per quarter in revenues to the city and local businesses.

The secret, of course, to successful Short Term Rentals are owners like us, carefully vetting guests beforehand to determine their numbers, ages, relationships and plans including no pets and no-smoking to protect our beaches, etc.

No guest wants an onsite babysitter and no Malibu homeowner should be burdened with that obligation.

Malibu now has such a great reputation, worldwide. Please use your influence to punish the nuisance properties and let us keep revenues coming into the city and local businesses with our carefully selected and vetted guests.

Thank you,

Anne Ready
([redacted]

_____

The Gershs

[redacted]

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/14/20
Agenda Item # 4A

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/20 Agenda File

STR 33334 PCH

bj pike [redacted]

Sun 9/13/2020 12:23 PM

To: Patricia Salazar <psalazar@malibucity.org>; City Council <citycouncil@malibucity.org>

1 attachments (14 KB)

Malibu Petition 09-13-20.docx;

Dear City Council and Senior Administrative Analyst,
I am requesting to have our property "Grandfathered in" or "waived " from STR Prohibition.
I am Larry Stuppy's sisters and a co-owner of the above property. I will speak tomorrow as Larry will not attend this meeting as he usually does. He has asked me to represent our family



FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/14/20
Agenda Item # 4A

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/20 Agenda File

September 14, 2020

Honorable Council Members

My name is Bettijane Pike, sister of Larry Stuppy. I am speaking in opposition to the measure as it is drafted.

We are owners of the beach house at 33334 PCH that has been in the family for the last 72 years and regularly enjoyed by my grandparents, parents, my siblings, all of our children and grandchildren. Five generations in total. We have also rented it without incident during this period from time-to-time to defray expenses.

It is true that my siblings and I have inherited the property and currently have custody of it until the next generation. Over the years, we have hiked the hills, cleaned the beach and cared for wildlife. We also do not want to see the character or quality of life in Malibu to bee degraded. While we may not be classified formally as residents of Malibu, my family has been interested in the affairs of Malibu and also want to maintain its character.

We have helped protect the coast and local residents by assisting in the placement of boulders to protect the bluffs from collapsing. We have given access to fire trucks to protect property during fires and on one occasion allowed the home to be used by the fire department to coordinate firefighting activities.

We have supported Malibu charities, supported the fine arts and attended church at Our Lady of Malibu. We have delivered donations of food, clothing delivered to the council offices on Stuart Street to victims of the last fire.

We have also managed our property with great care and with consideration for our neighbors. We have employed a local property manager for years and are careful to whom we rent and have not had any complaints filed against us. We certainly do not want the beach house to be used as a party house

My family and I believe the Owner Occupancy requirement is an onerous requirement designed to virtually eliminate all short-term rentals. This seems exceptionally harsh and broad. It tells the world that Malibu wants to be an exclusive enclave for a privileged few and doesn't want visitors to enjoy the natural beauty of its beaches or mountains.

We would hope that the measure could be amended to make the Owner Occupancy requirement apply only to locations that have been cited for violating city ordinances. Absent that, we would petition to be included on the list of properties exempt from this rule.

Thank You
Bettijane Pike

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/14/20
Agenda Item # 4A

RECEIVED
Sep 14 2020
CITY CLERKS OFFICE
CITY OF MALIBU

Karen:

Will the tenants in the AirBnB motels that will supposedly benefit our community with a few gold coins transport your daughter to/from Rob LeMond's swim school? Will they help coach her sports teams?

Skylar:

Will the tenants in the AirBnB motels that will supposedly benefit our community with a few gold coins raise money for your sister's Optimist Club scholarship like she received in 2004? Will they donate to the Malibu Water Polo Foundation to help you play hole set? Will they support your sister's little league softball team?

Rick:

Will the AirBnB motel tenants help with our Boy Scout Troop? Will they take the scouts on hikes? Will they donate to the scouting program? Will they donate money so a promising young swimmer can attend a high level meet he could not otherwise attend?

Mikke:

Will the AirBnB motel tenants sponsor the girl scout troops, singers, dancers, scholars, nature studiers that actual neighbors do? Will those tenants show up to help fill sand bags, help the school bands, orchestras, choirs?

Jefferson:

The questions to your co-councilpersons were obviously, I hope, rhetorical. You know the answers. The so-called financial study was simply for the benefit of a foregone conclusion. Somehow this city has succeeded, starting 12 years post conflagration, without turning all of it into a motel zone. Let hotels be hotels. Let homes be homes. The city doesn't need this bogus source of revenue nor does it need the enormous cost, for which no accounting has yet been made by the so-called analysts.

Norm Haynie wants to build a hotel in a location that is zoned for it. Why permit scofflaws to create motels where there such use is not permitted by current zoning laws. Our current zoning law does not permit the use as motels of single family residences in single family zones. This zoning law has already passed muster with Coastal. It ain't broke - don't fix it - enforce it. NOW.

For about six years we have been involved in this kerfuffle, not because we wished to be part of an extended and unwanted legislative process such as staff and council have created, but because we asked staff, who ignored us and mocked us, and then the city council, to simply uphold their oaths of office and enforce the law as they promised and likewise to honor the City's Mission and Vision Statements. AirBnB and its ilk are simply not permitted by existing law. Stop them.

We are optimists that the council will actually enforce our existing law, but, also, realists, recognizing a lack of interest in what may be a majority of you. We therefore urge the most restrictive possible ordinance so that our Mission and Vision Statements be honored:

1. Parking must be onsite
2. Owner must be present at all times
3. All complaints must be investigated and the complainant provided a report on the result. After five consecutive complaints proven to be frivolous the complainant must identify him/herself.
4. The residents must be given one month of summer with no short term rental use permitted. Examples: all of July, August 15 to September 14.
5. No short term rentals shall be permitted between October 15 and April 14 each year.
6. Not all CC&Rs provide for a homeowner's association. However, those CC&Rs benefit and/or burden a number of properties. Any property owner whose property is burdened by CC&Rs should be required to notify each property owner whose property is benefitted by those CC&Rs regardless of whether or not a homeowner's association exists. Therefore,
   Section 17.55.020 D 9 should be amended to state (additional material underlined):

   "Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that owner has notified such association <u>and each property owner benefitted by Covenants, Conditions and Restrictions (CC&Rs)</u> that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the owner maintains a short-term rental permit for the property."

Please, after six years of pleading, do the right thing and enforce what is on the books rather than selling out our city and your neighbors for a couple of bucks that legitimate businesses such as Mr. Haynie's can readily provide without wrecking existing neighborhoods.

Bill and Rosemary Sampson

RECEIVED
Sep 14 2020
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

From: Bruce Silverstein [redacted]
Sent: Saturday, September 12, 2020 8:30 PM
To: Mikke Pierson; Karen Farrer; Rick Mullen; Skylar Peak; Jefferson Wagner
Cc: Christi Hogin - Office; Heather Glaser; Reva Feldman
Subject: Item 4A, Short-Term Rental Ordinance

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/14/2020
Agenda Item # 4A

Dear Council Members:

My wife and I were forced to abandon our first home in Malibu on account of short-term-rentals. When we first moved to Malibu, we leased an amazing condominium on Carbon Beach. We were just a few steps from the sand, and I walked the beach with our dog just about every day (multiple times a day on many days). We also kept the sliders to the balcony overlooking the ocean open most of the day, and enjoyed the ocean breeze, and the sight, sound, and smell of the ocean, dolphins, an occasional whale, and all sorts of birds, including the majestic pelicans who patrolled the beach. It was paradise, and we would have enjoyed living there the rest of our lives if we could have done so (and we had a lease with multiple renewal options and a right of first refusal to purchase the condo if the owner ever decided to sell it).

Then, one day, the owner of the condominium above ours began using his unit as a short-term-rental. The peace and serenity of our dream-home on the beach was transformed overnight into a nightmare. There was constant noise above our heads, cigarette ashes falling on our balcony from the balcony above, spilled liquor bottles, blocked parking spaces, and sometimes hostile strangers. We tried our best to obtain our neighbor's cooperation, and we attempted to deal with the situation, but our neighbor could have cared less, as he had moved to a different location, and the situation was intolerable. So, we did the only thing we could do. We terminated our coveted lease, and we moved to a house in a quiet neighborhood where the property owners live in their homes and do not rent them out to transient strangers.

I understand that our experience is not at all uncommon in Malibu, but that many members of our community lack the flexibility to move (and have no desire to do so in any event), and are forced to attempt to tolerate the intolerable. Even when short-term-rentals are well-managed, and the "hotel guests" are well-behaved, the abundance of short-term-rentals in Malibu still (i) denies neighborhoods the charm and character of having families who know and interact with one another on a day-to-day basis, (ii) reduces the inventory of long-term rentals available to people who wish to be permanent residents of Malibu, and who would contribute materially to the City's tax base, (iii) reduces the number of "locals" who regularly patronize local businesses, and (iv) is disconcerting to many residents who constantly see new strangers in their neighborhoods and have no way of knowing whether they are short-term renters or criminals casing the neighborhood for thefts or worse. The most vocal opponents of short-term-rentals have identified many other drawbacks of the practice, which raise further concerns.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/2020 Agenda File

Overwhelming community outcry to eliminate, or at least curtail, short-term-rentals has forced the City's hand. It is no secret that the City Manager and some members of City Council have no problem with short-term-rentals, because of the substantial tax revenue they produce for the City. But Malibu is far more than a City. Malibu is a unique and serene environment, a place of exquisite natural beauty, and the home of a community of people who wish to live in harmony with nature. It is a matter of political happenstance that the true Malibu is situated geographically within the artificial borders of the City of Malibu. And it is contrary to the will of the residents of Malibu for the City of Malibu to permit the true Malibu to become a community of mini-hotels with a revolving door of transient tourists.

The City of Malibu's proposed solution to the issue of short-term-rentals is an ordinance that will permit short-term-rentals only on property that is the principal residence of the property owner. That ordinance has been tested by courts in other jurisdictions, and it appears to satisfy the concerns of the residents who are concerned by the abundance of short-term-rentals in our relatively small community. Unfortunately, the City Manager, City Attorney and City Staff all have dragged their feet in adopting the ordinance you have promised the community. It is unclear whether this is (i) an effort to wring out further revenue before the tax tap is closed, (ii) because the public servants responsible for bringing the ordinance forward for approval are not competent, or (iii) for some other reason. What is clear, however, is that the promised ordinance is long overdue.

On the other side of the equation, there are property owners who depend upon income from short-term-rentals to pay their bills. Many of these property owners claim that they will be forced to sell their properties if short-term-rentals were eliminated or materially reduced in Malibu. I have, however, yet to see an analysis that addresses the probability of short-term-rental units being leased as long-term rental homes if the ability to rent them to transient visitors were eliminated. Additionally, the City's proposed solution to the short-term-rental problem is to permit short-term-rentals on property that is the principal residence of the property owner. As such, the only properties that cannot be used for short-term-rentals will be properties in which the owner does not reside – many of which are owned by wealthy investors, and few of which are owned by Malibu residents who live in a different home in Malibu. Lastly, once the promised ordinance is in place, City Council will retain the authority to amend the ordinance to create specific exceptions to avoid undue hardship to resident property owners if it appears to be in the public interest to do so. For example, it may be appropriate to consider an exception for the limited circumstances where a property is owned by an individual (and not an entity) that has his or her principal residence within a specified number of miles (i.e., some number less than 25) of the short-term-rental property, who personally visits the property on a daily basis, and who has a family member who principally resides on the rental property – or something else like that, which would ensure meaningful responsibility over the short-term-renters and would be unlikely to materially increase the inventory of short-term-rental properties, as there likely would be very few such exceptions.

The latest roadblock that the City Manager, the City Attorney and City Staff have thrown up to delay the implementation of the promised ordinance that will curtain short-term-rentals in Malibu

is a contrived legal argument that the ordinance cannot be adopted without the approval of the Coastal Commission. It is far from clear that this is correct – and yet the City Attorney repeatedly (and falsely) insists (contrary to the City's best interests) that the law is clear that Malibu lacks the authority to adopt the new law as a "general ordinance" that is a part of the Municipal Code that is outside the purview of the Coastal Commission. The City Attorney also repeatedly (and falsely) insists (contrary to the City's best interests) that the law is clear that short-term-rentals are currently lawful in Malibu, even though there is a powerful legal argument that short-term-rentals in residential neighborhoods are unlawful under the zoning laws that have existed in Malibu for the past quarter century.

My stance on short-term-rentals is that the community has spoken, loudly and repeatedly, and the time has come to give the community the law it has demanded and has been promised. The law should be adopted as a general ordinance of the City of Malibu, it should not be submitted for approval by the Coastal Commission, and it should go into operation ASAP. After that, it also will be incumbent upon the City to enforce the law, and not turn a blind eye to a tax revenue producing criminal enterprise.

Respectfully,

Bruce Silverstein

RECEIVED
Sep 14 2020
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

Subject: Short Term Rental Ordinance: Oppose On-Site Host Requirement

From: Colin Drummond [redacted]
Sent: Sunday, September 13, 2020 6:22 PM
To: Mikke Pierson <mpierson@malibucity.org>; Skylar Peak <speak@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>
Cc: Jyoti Drummond [redacted]
Subject: Short Term Rental Ordinance: Oppose On-Site Host Requirement

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/14/2020
Agenda Item # 4A

Dear Honorable Mayor Pierson and City Council,

Short Term Rental Ordinance: Oppose On-Site Host Requirement

We support common sense regulation of short term rentals to increase enforcement and accountability, but in a way that is consistent with how it's been permitted for years in Malibu. We take exception to the on-site host requirement as it will lead to the following issues:

1.
2. It
3. will force many Malibu homeowners who rely on rental income to sell. This is unethical at a minimum
4. and likely illegal, given that these homeowners have made important financial decisions on a set of pre-existing circumstances, namely, being able to rent out their entire homes on a short-term basis. With a pandemic in full swing and with many homeowners
5. under the gun, this now even seems cruel and heartless.
6.
7.
8. It
9. will dramatically restrict overnight visitor access to Malibu. Visitors have a handful of hotels to
10. choose from compared to Santa Monica, so they rely on short term rentals. Santa Monica has over 3000 hotel rooms and has never allowed STRs. Basing new regulations on the Santa Monica laws are apples to oranges. By requiring on-site hosts, you are making Malibu
11. seem an even more NIMBY elitist enclave than it is already seen.
12.
13.
14. It
15. will reduce city revenue already hit by Woolsey and COVID. The proposed regulations, with the glaring
16. exception of the on-site host requirement, do a good job of making sure hosts, the city and the sheriff's department responsibly manage short term rentals. The on-site requirement will sharply curtail rentals and therefore city revenue through the TOT.
17.

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18.
19. It
20. is a cynical misdirect from the real issue: enforcement. There are several common sense proposed regulations
21. that adequately and directly address enforcement. It is incumbent on the City, in partnership with the Sheriff's department, to follow through on this. AirBnB also appears to finally be stepping up to take responsibility in ensuring bad actors are dealt with
22. systematically. Requiring on-site hosts can be likened to using a sledgehammer to kill a fly. It is so overboard that it can only be interpreted as an attempt to outright outlaw short term rentals.
23.

In summary, please remove the on-site host requirement from the proposed STR ordinance and approve it to bring common sense regulation for the betterment of the city, and all Malibu residents and visitors.

Colin

ITEM 4A, SHORT-TERM RENTALS Monday, September 14, 2020

RECEIVED
Sep 14 2020
CITY CLERKS OFFICE
CITY OF MALIBU

CHARLOTTE M FRIEZE

Mayor Pierson and Honorable Council Members,

My husband and I moved to Malibu for its unique and serene environment, its natural beauty and the opportunity to live in harmony with nature.

Short-Term Rentals are a threat to our community that is within our control.

Neighborhood is key to our Malibu lifestyle. The rehabs are bad enough. Not controlling Short-Term Rentals will just add to the destruction of the peace and quiet we all enjoy.

Short-Term Rentals disrupt Malibu's neighborhoods. Short-term renters have consistently shown no respect for the community, the environment or the local residents. Their noisy parties echo in our canyons and reverberate down our beaches. Their trash flies through the air until it settles into the sand and brush. They don't live here. They don't care. They are users. They are simply in Malibu for a short time during which many show little or no respect for the neighborhood and beauty around them.

Importantly they reduce the number of long-term rentals available to families who are additive to the neighborhoods, work locally, patronize local businesses and attend our schools.

During the post-Woolsey fire reconstruction there are many daily workers in the neighborhoods. Adding the continuous turnover of transient tourists further increases the number of strangers. Knowing one's neighbors increases safety.

The City Council, City Manager and City Staff are short sighted. A solid Short-Term Rental policy may reduce the tax revenue in the short term but will support real estate values in the long term. Higher real estate values generate higher taxes when sold.

I understand that the law should be adopted as a general ordinance of the City of Malibu. It should not require Coastal Commission approval.

The time to adopt a short-term rental ordinance is NOW.
Once adopted it is our greatest hope that the City would then enforce the law.

Thank you for respecting the Malibu Mission and Vision Statements by preserving the neighborhood character that is the reason we live in Malibu and the reason that our real estate is desirable.

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City of Malibu
Office of the City Clerk
Meeting Date 9/14/2020
Agenda Item # 4A

Sincerely,

Charlotte Frieze Jones

Charlotte Frieze Jones
Malibu

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Heather Glaser

From: [redacted]
Sent: Sunday, September 13, 2020 1:40 PM
To: Rick Mullen; Skylar Peak; Jefferson Wagner; Karen Farrer; Mikke Pierson; Heather Glaser
Subject: [SPAM] Item 4A, Short-Term Rental Ordinance

We have read Kraig Hill and Lynn Norton's comments on STRs and agree with them. Thank you, Carla and Leigh McCloskey



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Office of the City Clerk
Meeting Date 9/14/2020
Agenda Item # 4A

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Kelsey Pettijohn

Subject: Support Non-Hosted STRs



From: DENNIS SEIDER [redacted]
Date: September 10, 2020 at 12:56:54 PM PDT
To: Karen Farrer <kfarrer@malibucity.org>
Subject: Support Non-Hosted STRs
Reply-To: [redacted]

Dear Councilmember Karen Farrer,

I encourage you to consider the least heavy handed whole home vacation rentals in Malibu.

Amidst the heat, fires and pandemic, non-hosted whole home vacation rentals are like an elixir of sanity for those not as fortunate as us and just as safe with an off-site host as those which are hosted on site.

In addition, required on site hosting is the equivalent of a ban on whole home rentals that would force many property owners to sell homes they use to cover the mortgage and provide income for their families.

Such a ban runs counter to our hearts and the spirit of the open access to the sea which we have always provided.

Please amend as necessary and support the least restrictive alternative.

Thanks,

Regards,
DENNIS SEIDER
[redacted]

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/14/20
Agenda Item # 4A

CC: Council; CM; CA ; PL____; Ref. Binder; Original to 9/14/20_____ Agenda File

Kelsey Pettijohn

Subject: FW: STR Freeze



From: Don Tollefson [redacted]
Sent: Wednesday, September 9, 2020 10:16 AM
To: Skylar Peak <speak@malibucity.org>
Subject: STR Freeze

Good morning Mr. Peak, sorry we couldn't discuss any of this on the phone. I understand your compassion for neighbors of STR "party houses." There's also a second problem. Looming, but potentially just as troublesome. STRs are proliferating between each and every City Council meeting. Currently, STRs have risen to 12.5% of Malibu's housing stock. Why let the STRs percentage climb a single percent higher? Santa Monica's population is slightly over 90,000. Santa Monica has 4000 STRs. Coupled with Santa Monica's home share STRs the percentage of housing stock used for Santa Monica STRs is between 4% and 7%. Shouldn't STRs then, therefore make up no more than between 4% to 7% of the Malibu housing stock? **The immediate solution to this ongoing proliferation is a temporary freeze on any new STRs.** Since the current percentage of STRs in Malibu is 12.5%, who could complain? Not the California Coastal Commission. The problem is this issue has always been forgotten as soon as the topic turns to problems caused by "party houses." Please don't forget this issue before the STR percentage climbs yet higher. It should be the first item of discussion so it's not forgotten or overlooked.

See you on the 14th. Don Tollefson

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Meeting Date 9/14/2020
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Kelsey Pettijohn

Subject: Correction

From: Don Tollefson [redacted]
Date: September 10, 2020 at 2:00:02 PM PDT
To: Skylar Peak <speak@malibucity.org>
Subject: Correction
Reply-To: Don Tollefson [redacted]

Skyler, a more accurate percentage of Malibu housing stock that are STRs is 7.5%. I thought it was higher (12.5%). A freeze pending an approved interim STR ordinance that sets a percentage limit on STRs at 7,5% and includes requirements for being an STR operator would be excellent. It would halt the "wild west" thing that's now going on and provide a chance to float that 7.5 percentage by the Coastal Commission. Aside from "party house" complaints, the only significant other complaint at the City Council meetings is that "Malibu is losing it's community feel" (too many STRs).

Don Tollefson

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Sep 14 2020
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CITY OF MALIBU

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/14/2020
Agenda Item # 4A

Heather Glaser

From: Dean Wenner [redacted]
Sent: Sunday, September 13, 2020 12:24 PM
To: City Council; Mikke Pierson; Skylar Peak; Karen Farrer; Rick Mullen; Jefferson Wagner; Heather Glaser; Kelsey Pettijohn
Cc: [redacted]; Bonnie Blue; Reva Feldman
Subject: Comments for Sept 14 2020 City Council Meeting regarding LCPA No. 19-003, ZTA Nos. 19-005 and 17-002
Attachments: Malibu Code Enforcement.pdf; Malibu Code Enforcement Form.pdf; Malibu Code Business License.pdf

Dear City Council Members,

Thank you for your diligence on this matter and taking the time to do it right while surely being subjected to a lot of community pressure. Thank you for your fairness and objectivity in listening and taking into account all comments relative to this issue.

I am against both the LCPA and ZTAs however I am in favor of helping and empowering the City to use its current enforcement tools better and to provide and implement limited and results oriented revised or additional enforcement tools against nuisance properties. Owners must be held accountable to act respectfully and cordially within the community consistent with City Code. Revisions or additions should be made to City Code and not via Zoning or the LCPA.

The effort we are involved in today originated from, and is rooted in, an effort to ban short term rentals. For this reason, and the fact that goal cannot be achieved, the documentation associated with all this is lengthy and complex. The goal should be to train and support for more effective use of existing City and Code tools, and via revision and addition to City Code which can be easily done, increase the productivity of the toolbox with enforcement items that do not diminish Owner rights and that will motivate the community to act and influence other members of the community and companies that conduct business in the community to act in line with reasonable expectations. It is then upon us to prioritize addressing an STR complaint that is properly submitted. I'm not saying to ignore verbal comments but verbal complaints will not result in action. There must be a response to a verbal complaint of "please go the Code Enforcement page and complete the Code Enforcement Investigation Form". Then results will be achieved.

Owners who choose to rent must not be held to different requirements, codes and standards than Owners who do not rent. The Draft ZTA promotes this and it is not fair or proper. Owners must not be broken down into primary and non-primary for STR purposes as Owner rights and responsibilities are the same whether they are primary or non-primary. Proceeding with the ZTA without the LCPA is a known non-compliance of the Coastal Act and we cannot lead effectively if we act like the offenders we are trying the safeguard against. Proceeding with the "Santa Monica Type" Ordinance is a complete misuse of that legal action precedent as the Draft Malibu Ordinance would diminish Owner rights and eliminate legal STRs while the Santa Monica Ordinance granted greater Owner rights as STRs were always illegal.

A permit system must not be implemented via the ZTA as "The City of Malibu does not issue business licenses. The City adopted the Los Angeles County Code regarding business licenses, which lists those businesses that must be licensed." Requiring a permit for STRs would be a license to conduct rentals. A permit is a document to give authorization or consent to do short term rentals. Owners currently have this authorization (Right) and do not require a license to do so. We pay ToT and the ToT registration specifically states it is not a permit. Adding a permit system within Zoning is not good faith negotiation to meet City Code but rather an effort to ban STRs in the future.

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Furthermore, Zoning is "a measure enacted by a city or county to divide a community into districts or zones within which permitted and special uses are established, as well as regulations governing…standards." We have already established that STRs are legal and integral to current Owner Rights. We comply by following City Code inclusive of registering for ToT and already sacrificing some of our privacy to do so. Revising Zoning to require a permit system is a step to attempt a rental ban at some level in the future and is not in good faith to Owner Rights. I state this based upon observations in regard to how our City system works today:

1. The majority of complaints discussed are verbal and not documented per City Code (attached form for investigation)
2. City code enforcement documentation for complaint investigation states the prioritization and STR complaints are very low on the priority
3. Permit compliance matters appears heavily backlogged
4. Obtaining permits appears to rarely be simple and quick
5. ToT registration was incredibly fast. It's not a permit and the modification to City Code was quick and easy.
6. The above items yield a conclusion that when motivated things happen but when caught up in political or procedural bureaucracy that the process is slow and there is a chance a permit is never obtained and unreasonably withheld.

Ordinance No. 468 Recitals indicate via item B that the real problematic issue is Owners of apartment complexes and other multifamily buildings seeking to convert their units to short-term rental use and creating illegal hotel and motel uses in the City. For this reason, if City Council continues forward with the ZTA it should be limited in scope to the multifamily units and not include residential property.

These reasons, supplemented by the facts that STRs are legal today, there are nearly no documented complaints, and enforcement of current Code for STR related items is not a priority, and that the hidden agenda is to ban rentals, implementing Zoning changes for a permit system is not proper and must not be done.

The environment over the history of this concern for short term rentals is parts of the community complaining to the City and expecting the City to take action. This approach has resulted in a long process with a lot of time and money spent and the issue remains open and active. If the community is mentored and coached how to self-police the matter per se, as done quickly with the Paseo Hidalgo property, results can be obtained quickly behaviors will change. I'm not naïve and know one action will not drive complete compliance however the general public can act instantly where City Council cannot act instantly. Furthermore, if the community documents issues using the current Code Enforcement process. Attached is a print of the Code Enforcement page of the www.MalibuCity.org page as it existed when I made my previous comments. Please see attached for the Code Enforcement Investigation Request Form. This is precisely the tool to be used to document, action, and control Code Enforcement matters inclusive of claims against STRs. **https://www.malibucity.org/DocumentCenter/View/103/Code-Enforcement-Investigation-Request-Form?bidId=**

It is documented in the recent official record that when we empower Rental Platform Companies to take action by documenting that nuisance and non-compliance has occurred (Code non-compliance) that they will take action. People and Companies will not take action with verbal complaints as there is the risk that much of the commentary is not exactly factual and in some cases hype and made up stories. In our litigious society Companies will not act swiftly and may not act at all.

Airbnb has stepped up and demonstrated they "get it" when we assist them. In reading the 179 pages of commentary from the August 10 meeting it is clear the Companies like VRBO do not get it, and with all the legal references and documentation we spend too damn much time and money wrangling instead of creating an environment where the community works together for the better good. In my experience growing up in a family that did not have much money, I always got better results when I found a way to battle with my brothers or finding a way to work with others rather than running to Mom & Dad to complain. Mom & Dad were always supportive but there was really was very little they could do. I had to make things happen in the moment myself to really move the needle on what I wanted.

Companies that do not act accordingly and take action to be compliant with the City Code can have efforts to remove their License to conduct business in the community.

The following is more details to assist in the decision-making process:

1. Additional regulation is unwarranted and since it is rooted in an effort to ban STRs we should not take a step in that direction as the intent of those behind it is unreasonable.
    A. STRs have been legal in Malibu for decades
    B. MMC addresses code matters and there are systems and tools in place to conduct code enforcement – like a business we need to act on documented incidents and not just hearsay and commentary
    C. 3 of 525 code enforcement issues are Noise or Nuisance – statistically insignificant and not a proliferation of non-conformance
    D. No change to the enforcement system is recommended which means it is working – City Council Policy #4 requires the City to follow its own codes and regulations – I'm perceiving residents want enforcement to change things that are legal – that's a problem in itself and not justification for change – let's not promote or enable false or inaccurate reporting
    E. Prior to 2009, ToT was required of STRs and Malibu was collecting ToT
    F. In 2009 Malibu MMC formally included it and has collected ToT under it
    G. According to the City's data, less than 6% of properties were advertised for STR – this is well in line with the General Plan which indicates 43.7% housing types that are renter related in Table 7-5 – The internet certainly has made STR information more readily available to the public but there is not proliferation of non-conformity to MMC nor a deviation from the General Plan as short term, vacation, seasonal, recreational and occasional use rentals have long been done in Malibu.
    H. The General Plan and City Council Policy is to protect private property rights and ensure such right is the prime consideration in matters – this ordinance is a move to restrict and remove private property rights of conforming residents which is not acceptable
    I. In addition, property rights must be the same for both primary and non-primary residents, not discriminate against non-primary residents, and not give primary residents more rights (such as to allow primary residents more citations to act worse than non-primary residents). This is supported in the General Plan Existing Conditions (1.2.1). "Most residents live in the community all year and others visit seasonally or whenever they can leave the urban area." All residents are equal and free to use their private property in a conforming and lawful manner, the City has Code Enforcement tools, and residents should retain their inherent rights that have been in place for decades.
2. Adopting a regulatory system similar to Santa Monica is a reaction to follow a perceived legal path but is an incorrect application of the intent and drivers for Santa Monica action
    A. Santa Monica never allowed STRs prior to their Ordinance
    B. The action for the Ordinance was driven to regain control of housing stock as owners abused the approval they were granted to build housing stock intended for long term use only to illegally use it for STR
    C. The action for ordinance was driven by the intensification of a non-conforming issue which was illegal STRs across Santa Monica

D. Santa Monica Ordinance grants greater private property rights to owners as STRs are now legal when they were illegal before the ordinance

E. NONE of these items are applicable in Malibu so the basis to adopt it is mis-founded at the least and an attempt to keep a ban alive at the worst

F. Restricting and limiting existing rights is not consistent with City Values or Plan – this action is not justified and would be punitive to lawful and respectful residents – and not in the spirit of Ex Post Facto protection intent inherent in State and Federal law

3. Proceeding with the Ordinance on the ZTA is premature

A. In prior correspondence, the California Coastal Commission made it clear that regulation in the coastal zone must occur within the context of the Local Coastal Program and/or be authorized pursuant to a coastal development permit.

B. Proceeding strategically with the ZTA to circumvent the intent is not good faith – the ZTA and LCPA must go together

C. The General Plan did consider renters as both short and long term as "long term" is specifically mentioned in the Dwelling Unit definition. Therefore limiting STRs specifically would be a change of use within text and the intent of the Plan.

D. The ZTA should not be used as a vehicle to set precedent to reduce or strip private property rights.

E. We knew last December that proceeding without the LCPA was wrong. Pushing this forward without the LCPA will create a negative environment and is not the right thing to do. When the LCPA does not proceed or the CCC rejects it we will have knowingly created the "grey" so many complain about. Such an approach is not consistent with City Policy and must not be done.

F. Passing a non-conforming ordinance that falsely restricts owner rights is likely to open the City of Malibu up to civil suits for damages related to such items as, but not inclusive of, lost income and recovery of costs. The exposure is over 8x the ToT amount. Let's not unnecessarily subject the City to this risk and be as responsible as possible with the City Budget going forward. The next two years at a minimum are going to be a challenge for us all.

4. City Finances & Benefits

A. ToT down to $2.4M last year and projected $1.3M this year

B. Seems the Woolsey Fire attributed to 50% reduction in STR and the Pandemic another 50% reduction

C. Malibu has done a lot of good and will do a lot of good with the tax revenue – with Woolsey Fire hangover and the Pandemic impacts possible over the next 1-2 years now is not the time to further restrict this revenue, hurt local business even more, or restrict access to the coast for visitors.

D. STRs are legal, Owners are overwhelmingly good neighbors and good stewards of the neighborhoods, STRs are good for local business in addition to ToT, and

help achieve both City and Coastal Commission commitments for public access (General Plan and LCP).

E. Residents need to find a way to work together and not make it a City issue to strip property rights. We should not be recommending legislation additions for items conforming to the General Plan, MMC, and existing LCP.

Please do not vote in favor of either the LCPA or ZTAs.

1. The proposed STR Ordinance would impose new, significant restrictions on use and strip Owner Rights.
2. Lawful rentals are appropriate and legal under current City rules
3. Focus on multifamily buildings for restrictions
4. All Owners must be treated the same. There cannot be discrimination against lawful and respectful non-primary Owners.
5. Banning or effectively banning STRs is a change in use and in direct conflict with the General Plan as rentals are recognized in the General Plan.
6. Revision or addition to City Code to address things like contact information, max occupancy, and parking restrictions can be accomplished quickly and with immediate diligence the proper behaviors will be experienced by using Code Enforcement and the Code Enforcement Investigation Form.

Please proceed to mentor and coach the community on how to handle the matter within existing City Code requirements and methods. The need to increase penalties for non-compliance to better drive behaviors is warranted as that funding can support the prioritization of such complaints. This is supported strongly within staff documentation as there is no change recommended to the current enforcement method.

Best regards,

Dean Wenner

CODE ENFORCEMENT

Code Enforcement is the process by which the City ensures compliance with the laws and regulations stated in the Malibu Municipal Code (MMC) and Zoning Ordinance to promote and protect public peace, health, safety, and welfare, while guiding growth and development in keeping with the General Plan. For further information on the compliance process or to report a code violation in progress, contact Code Enforcement staff at 310-456-2489, ext. 484.

MUNICIPAL CODE VIOLATIONS & PENALTIES

Failure to comply with provisions outlined in the MMC are subject to penalties as defined in MMC Section 1.16.010, which states:

B. Infractions. Any person violating any provision or failing to comply with any mandatory requirement of this code expressly stated by this code to be an infraction shall be guilty of an infraction. Any person convicted of an infraction shall be punishable by:

1. A fine not exceeding one hundred dollars ($100.00) for a first violation;

2. A fine not exceeding two hundred dollars ($200.00) for a second violation of the same provision of this code within one year;

3. A fine not exceeding five hundred dollars ($500.00) for each additional violation of the same

provision of this code within one year.

Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this code is committed, continued or permitted by such person and shall be punishable accordingly.

A complete list of MMC Chapters subject to these penalties are specified in MMC Section 1.10.040.

COMMON CODE ENFORCEMENT ISSUES

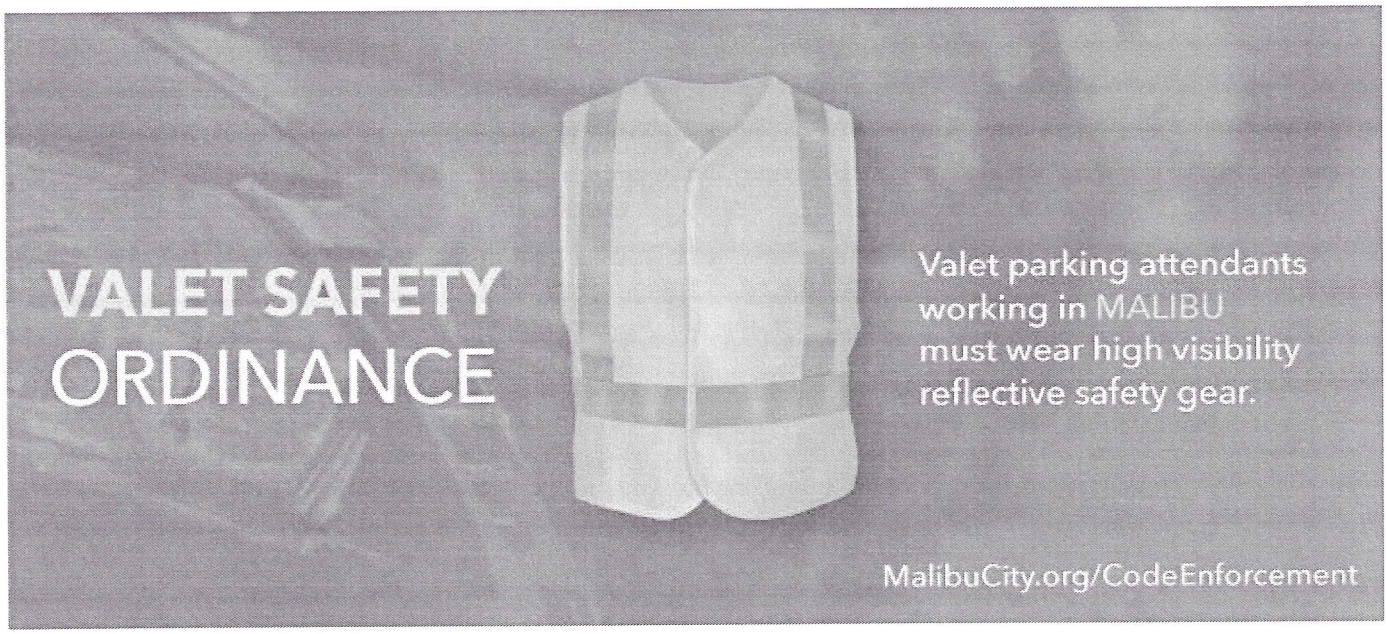
Next

PLANNING APPROVALS VS. BUILDING PERMITS

For some small projects on your property, you may only need an approval from the Planning Department. That usually means a single, short visit to the Public Counter to speak with Planning staff. However, larger, more complex projects, such as building an additional room, grading, etc. could require both Planning Approval and a Building Permit.That means a little more paperwork and a little extra time.

For more guidance, visit the Planning Counter, call the Planning Hotline at 310-456-489 ext. 485, or email mplanning@malibucity.org. Calls and emails are always returned within 24 hours.

VALET SAFETY ORDINANCE



On June 27, 2016, the City Council adopted Ordinance No. 407 establishing MMC Chapter 9.38 requiring valet parking attendants working on public rights-of-way in Malibu to wear high-visibility reflective safety apparel at all times (day or night). The ordinance is meant to keep valets safer, as well as their customers, by making them more visible to motorists on PCH and all City streets. The Los Angeles County Sheriff's Volunteers on Patrol (VOP) are conducting outreach among valet service operators in Malibu to educate them about the ordinance requirements.

RESOURCES

- MMC Chapter 9.38
- Approved high-visibility safety apparel

For further questions, contact Senior Code Enforcement Officer Doug Cleavenger at 310-456-2489, ext. 231 or DCleavenger@malibucity.org.

CONTACT US

CODE ENFORCEMENT

Physical Address
23825 Stuart Ranch Road
Malibu, CA 90265

Phone: 310-456-2489, ext. 484

Directory

QUICK LINKS

- Code Enforcement Investigation Request Form
- Open Code Enforcement Cases

City of Malibu

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-7650 · www.malibucity.org

Code Enforcement Investigation Request

Instructions: If you have a complaint regarding a possible violation of any Malibu Code (Municipal, Building, Zoning), complete the top portion of this form, sign and date where indicated, and return the form as directed below.

Note: Complaints regarding building / grading without a permit or matters relating to public health or safety need not be signed. If it is determined that a violation exists, the City will become the complainant and move toward obtaining abatement. Progress reports will not be provided to complainants.

Please attach any information which you feel will be helpful (e.g. photographs, maps, etc.)

Complainant Name: _____
Complainant Telephone: _____
Complainant Address: _____

Address of the property about which you are complaining: _____
_____
Owner's Name*: _____
Owner's Telephone*: _____
Occupant's Name*: _____
Occupant's Telephone*: _____
Complaint Description (please be as descriptive as possible):
_____
_____
_____
_____
_____
_____
_____
_____

Signature: _____ Date: _____

This form may be mailed City of Malibu, Planning Department - Code Enforcement, 23825 Stuart Ranch Road, Malibu, CA 90265 or faxed to (310) 456-7650 (follow up with mailed original). You may also deliver this form to City Hall; please address as indicated above.
For further information please contact Code Enforcement Hotline at (310) 456-2489, ext. 484.

Received by: _____ Date: _____

*provide if known; not required

BUSINESS LICENSE

The City of Malibu does not issue business licenses. The City adopted the Los Angeles County Code regarding business licenses, which lists those businesses that must be licensed.

For additional information or for a business license application, contact the Los Angeles County Business License Office at 213-974-2011 or go to the County Treasurer's website.

If you plan to run a business out of your home, you must also comply with the Home Occupation Rules.

Local businesses interested in joining the Malibu Chamber of Commerce can contact the Chamber at 310-456-9025 or via email. For more information, visit the Chamber website.

CONNECT WITH US

5.04.010 Adoption of business license ordinance.

Except as hereinafter provided, Title 7, Business Licenses, of the Los Angeles County Code, as amended and in effect on July 16, 1991, is adopted as the business license ordinance of the city.

A copy of the business license ordinance has been deposited in the office of the city clerk, and shall be at all times maintained by the clerk for use and examination by the public. (Prior code § 6300)

View the mobile version.

UPPER MESA PROPERTY OWNERS ASSOCIATION

20750 LAS FLORES MESA DRIVE
MALIBU, CA 90265
310-456-6862

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/14/20
Agenda Item # 4A

RECEIVED
Sep 14 2020
CITY CLERKS OFFICE
CITY OF MALIBU

September 14, 2020

Honorable Members of Malibu City Council
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Good Evening Ladies and Gentlemen

Subject: City Council Meeting on Monday September 14, 2020 at 6:30pm Short Term Rentals Request for Enforcement Tools against Nuisance Properties

I am Ernie A. Farhat, the President of the Upper Mesa Property Owners Association and I reside at [redacted]

In our Residential community we have had numerous complaints from various property owners as it relates to the short-term rental activity being conducted at the single-family residence at **20607 Eagle Pass Drive**, Malibu, Ca 90265 located in our Tract 25318. The property owner has been advised that our CC&R's and By-Laws prohibit all commercial activities in our tract, such as Filming, Short-Term Rentals, particularly for parties and other commercial uses. These Commercial Short-Term Rentals disrupt the quiet enjoyment of our residential community and create unsafe traffic conditions on our single lane roads for ingress and egress of our Residential community. People unfamiliar with our road conditions such as Short-Term Rental tenants and their guests, particularly when they are under the influence, are creating a serious safety hazard.

We understand that the pending short-term rental zoning text amendment No. 17-002 may require a site host, a permit and other regulations which address nuisances and excessive ingress and egress that impacts residential neighborhoods.

The UMPOA is requesting "Enforcement Tools" from the City of Malibu to be used against nuisance property owners that continue to conduct Short-Term Rental program.

WE would like the following list of comments and or questions be discussed at this evening's meeting.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/20 Agenda File

1. Will the City of Malibu's definition of Short- Term Rental include uses of less than a full month (which is the case in our community)?

   1.1 We would like the Short Term Rental ordinance to define Leasing for less than six months as Short-Term Rentals.

2. What type of penalty system can be put in place such as a fine structure for violation of this Short-Term Rental ordinance? Example: $2,500 first offense, $5,000 second offense?

   2.1 Will the City support a program to turn off the electricity at Short-Term Rental violator's properties as has been done in some areas of Los Angeles County?

3. Since there are so many communities in Malibu that have HOA's involved in any given offense. Will the City seek damages against the offending property owner under the proposed Short-Term Rental Ordinance being enacted? If the fines are assessed by the City, will the HOA's involved have the right to place a lien on the property being fined?

- We feel the Short-Term Rental Ordinance needs to support the HOA's objectives to eliminate the nuisance caused by Short Term Renters, including loud boisterous behavior, excessive drinking (with the possibility of driving under the influence), loud music, and to prevent lights from being left on all night and to sustain an environment of quiet enjoyment and peacefulness throughout the City of Malibu ?

In our community, we need the City's support to enforce NO Short-Term Rentals!!

Thank you for giving me the opportunity to speak to you this evening on this very sensitive subject of short- term rentals.

Respectfully,

Ernie A. Farhat

Ernie A. Farhat, President of UMPOA

CC: All Property Owners in Tract 25318

Kelsey Pettijohn

Subject: Correspondence re: City Council Agenda Item 4.A. - Short-Term Rental (STR) Regulations

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Office of the City Clerk
Meeting Date 9/14/20
Agenda Item # 4A

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Sep 11 2020
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From: Justin Block <justin@blocklaw.net>
Sent: Friday, September 11, 2020 11:40 AM
To: Kelsey Pettijohn <kpettijohn@malibucity.org>; Patricia Salazar <psalazar@malibucity.org>
Cc: Alan Block <alan@blocklaw.net>
Subject: Correspondence re: City Council Agenda Item 4.A. - Short-Term Rental (STR) Regulations

Kelsey & Patricia: Please find a correspondence below to be included in the Administrative Record regarding the Council's consideration of the above referenced matter on September 14, 2020. Can you also kindly confirm receipt. Thank you.

Mayor Pierson and Honorable Members of the City Council:

Please be advised that this office represents RNR Properties LLC and Calbest Investments, the owner of the property located at 22816 Pacific Coast Highway which contains a six (6) unit multi-family building where three (3) of the units have been registered with the City and historically been rented on a short-term basis.

Short-term vacation rentals ("STVR") are prevalent in California beach communities, including Malibu and predate the City's incorporation in 1991. The Coastal Commission was created pursuant to the California Coastal Act of 1976 ("Coastal Act"). Its purpose is to promote and preserve public access to coastal resources and to balance the interests of private property owners and the public interest in coastal resources. The Coastal Act requires that any person who seeks to undertake "development" in the coastal zone to seek a Coastal Development Permit ("CDP"). "Development is broadly defined in the Coastal Act to include "the change in density or intensity of use of land". As such, any regulation on STVR must be processed as a Local Coastal Program ("LCP") amendment. STVRs in the coastal zone represent a visitor-serving use and support coastal recreational opportunities. Pertinent Coastal Act Sections relating to STVRs are the following:

> Section 30213 states: *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*
>
> Section 30222 states: *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance pubic opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

The City's LCP was certified in September 2002 to implement the provisions and policies of the Coastal Act at the local level. Chapter 1, Section D, of the City's Land Use Plan sets forth the General Goals and Objectives of the City's LCP such as the following:

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/20 Agenda File

Subsection (c) states "[m]aximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners."

STVR are overnight accommodations in private residential zoned properties, rented on short-term basis which are often more affordable and offer greater flexibility than traditional visitor accommodations like hotels, motels or bed-and-breakfasts. They frequently provide amenities that traditional accommodations lack, including kitchens, family rooms and outdoor space. More importantly, STVRs offer travelers of all types additional opportunities to visit and enjoy the City of Malibu. Malibu, unlike the City of Santa Monica which the Zone Text Amendment ("ZTA") was based, does not have many traditional visitor accommodation options, as rooms are sparse, so any regulation limiting legally, pre-existing visitor-serving accommodations is in direct contrast with Coastal Act Section 30213 which states such lower cost visitor and recreational facilities shall be "protected" and "encouraged".

Our client has reviewed a correspondence submitted to the record by Airbnb's Policy Manager John Choi, dated August 7, 2020, and supports their recommendations. Our client respectfully requests that the ZTA/LCPA be revised to (1) allow existing, lawful, short-term rentals in non-primary residences that have operated without past incident to continue offering short-term rentals year-round; and (2) permit new, non-primary residences to offer year-round short-term rentals and allow additional units in multifamily buildings to be offered as short-term rentals on the seaward side of Pacific Coast Highway in the heart of the City's tourist core.

It is respectfully requested that this correspondence be made part of the Administrative Record regarding the Council's consideration of this matter.

Thank you.

Respectfully submitted,

Justin Block

Justin Michael Block, Esq.
LAW OFFICES OF BLOCK & BLOCK, APC
1880 Century Park East, Suite 415
Los Angeles, California 90067
T: (310) 552-3336
F: (310) 552-1850
E: justin@blocklaw.net
W: www.blocklaw.net
BRE Broker Lic. # 01932916

Heather Glaser

From: John Choi <john.choi@airbnb.com>
Sent: Monday, September 14, 2020 12:46 PM
To: Karen Farrer; Skylar Peak; Jefferson Wagner; Mikke Pierson; Rick Mullen; Heather Glaser; Kelsey Pettijohn; Reva Feldman
Subject: 9-14-20 Item 4.A - Airbnb Comment on STR Ordinances
Attachments: Unequal-Access-CA-Coastal-Report-FINAL-.pdf; 20-09-14 Letter to Malibu City Council re Proposed STR Ordinance and LCP Amendment_Updated (1).pdf; Exhibit A_Ordinance 472_Proposed Redline Changes_Final Draft.DOCX

Please find attached our comment letter on the Short Term Rental draft ordinances before the Malibu City Council.

In addition, I have attached proposed redlines to the ordinance, as well as a report Airbnb commissioned to examine access and equity issues along the CA coast.

Thank you for your consideration.

--

John Choi
Public Policy
Los Angeles

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Unequal Access

Protecting Affordable Accommodations Along the California Coast

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Bios

Dr. Philip G. King

Dr. Philip G. King received his PhD in Economics from Cornell is 1987 and has been an economics professor at San Francisco State for over 30 years; he was Department Chair from 2002-2005. He has worked on the economics of coastal resources in California for over 25 years and has published numerous peer-reviewed papers in journals such as Climatic Change and Ocean and Coastal Management. His work on coastal access includes a report with Jon Christensen of UCLA on Access for All, which examined disparities in coastal access. Recently, Dr. King conducted the economic analyses for eight local coastal programs including Oceanside, Ventura County, and Imperial Beach. He is currently working with the State Lands Commission evaluating the impacts of sea level rise on California tideland properties. Dr. King also served as chair of the SF State Foundation's Finance and Investment committee and implemented their divestment from fossil fuel stocks.

Sarah Jenkins

Sarah Jenkins is a research assistant with Dr Philip King. Her interest in coastal access for Californians was developed while living inland in Stockton, California. She is especially interested in the equity aspects of Dr. King's coastal work, drawing on an interest in structural discrimination. Sarah has previously worked in International Development in Washington D.C. and for a global health non-profit. Sarah holds degrees in Economics and International Relations from University of the Pacific.

Introduction

Our report, *"Unequal Access: Protecting Affordable Accommodations Along California's Coast"* was slated for release in March 2020 with the goal of analyzing the role short-term rentals can play in expanding access to California's coast. The COVID-19 pandemic and "shelter in place" order put those plans on pause as the state and local jurisdictions grappled with how to handle the unfolding public health crisis. In the following months, the COVID-19 pandemic has created a "new normal" of limited mobility, minimal tourism, and economic strife. Local governments nationwide are facing steep budget deficits as a result of decreased tax revenues. Things are far from the normal California summer season. However, as many have noted, this time may be a time for growth, change, and reflection, allowing us as individuals and communities to not simply return to normal, but to create something better and more inclusive.

It is uncertain what this year holds, but it is likely that following the pandemic the "staycation" will become more popular. For California, this likely means more visitors to the beaches, and more demand than ever for accommodations—especially those that offer increased privacy and safety.

The past few months have forced Americans to not only face a public health crisis, but a social and cultural crisis as well. The pandemic has disproportionately impacted Black and Latino Americans "in a widespread manner that spans the country, throughout hundreds of counties in urban, suburban and rural areas, and across all age groups," according to a comprehensive study of federal data from the New York Times. Compared to White Americans, Black and Latino Americans are three times as likely to contract the coronavirus, and twice as likely to die[1]. In the midst of this crisis, two months after this report was scheduled to be released, George Floyd's death at the hands of Minneapolis police sparked nationwide protests over a criminal justice system that systematically discriminates against people of color, especially black males.

The history of unequal access in California extends to one of our most sacred treasures, our beaches. Until as recently as 1960, California's beaches were segregated. Even after laws were passed to eliminate de jure discrimination, de facto segregation continues. However, there are at least two monuments in California worth remembering: the monument at "Inkwell" Beach in Santa Monica, and the monument at Bruce's Beach (Manhattan Beach, Los Angeles County). These two beaches allowed African Americans to visit the beach during segregation.

While today these *formal* barriers to beach visitation have ended, participation in coastal recreation at beaches, campgrounds, surf sites, tide pools and other spots is heavily skewed against people of color, and towards largely affluent groups who already have access. As our report documents (along with many excellent studies) access to California's coast is heavily skewed towards a richer, older and whiter demographic. This skewing is first and foremost caused by the high cost of housing on California's coast, though other historical and cultural barriers are also important.Increasing access requires recognizing these disparities and enacting policies to remedy them. Coastal communities need to be aware of and sensitive to these barriers—many of which are economic—in their local coastal plans and policies. With many low and middle-income

1 Oppel, Richard A. Jr et all, "The Fullest Look Yet at the Racial Inequality of the Corona Virus," New York Times. July 5, 2020.

Californians living inland, providing affordable overnight accommodation is crucial for inclusive coastal access. Unfortunately, as work completed by the Coastal Conservancy and Coastal Commission indicates, the supply of affordable hotels has actually decreased over the past twenty years, and the current outbreak of COVID 19 is having a profound effect on the hospitality industry and may lead to permanent closures, especially for smaller operations with limited access to capital markets.

At the same time, dozens of communities in California, many of them affluent, have placed a de facto ban and additional restrictions on short-term rentals, up to and including outright bans. In our study, we discuss two of the coastal cities -- Del Mar and Santa Barbara -- that have actively sought to restrict short-term rentals and hence access to the coast. These restrictions lower the supply of overnight accommodations and drive up the price, making access even more affordable for underserved communities.

To meet these challenges, the State and local coastal communities must embrace change and encourage policies that increase access. Short-term rentals (STRs) are one possible solution. STRs require no new construction, generate significant local taxes, and provide overnight accommodations in cities that have few other options.

In addition to the loss/damage to life, the COVID pandemic has wreaked havoc on State and local governments. By one estimate, the State of California will lose $2.5 billion in taxes this year (2020) and local jurisdictions will lose over a billion dollars[2]. Unlike the federal government, state and local governments cannot borrow money to make up for budget deficits, so budgets will need to be cut during a pandemic.

For local governments, short-term rentals can provide a significant new source of revenue, without raising taxes, while also increasing access to the coast. Our report examines these issues and provides a number of recommendations for policies that would increase access,, e.g., setting aside a certain percentage of STRs for underserved communities.

We believe achieving *access for all* will require the cooperation of all stakeholders including the private sector. Finding a solution—as with many issues highlighted by recent events—will require dialogue between business, State and local government, environmental and social justice groups, and other stakeholders, in order to forge a sustainable and equitable long-term solution.

Dr. Philip G. King and Sarah Jenkins

2 See Estimates of State and Local Government Revenue Losses from Pandemic Mitigation, By Stephan Whitaker, Policy Economist II, Federal Reserve Bank of Cleveland May 13, 2020, https://www.clevelandfed.org/newsroom-and-events/publications/cfed-district-data-briefs/cfddb-20200513-estimates-of-state-and-local-government-revenue-losses-from-pandemic-mitigation.aspx.

Executive Summary

The 1976 California Coastal Act was created to protect and preserve California's iconic coastline and beaches and to ensure that everyone has "maximum access…[to] recreational opportunities" of this precious resource[3]. The Act created the California Coastal Commission with the mandate to help protect and ensure access. Today, however, this access is being threatened by the high cost of California's coastal real estate, which has pushed many Californians to move inland, farther away from the coast in search of affordable housing. Numerous studies, cited within this report, have found that while visiting the coast is highly desired by most Californians, many feel that a visit is simply too costly. Travel costs and accommodation are the most prohibitive expenses—expenses which continue to increase as more of California's middle- and low-income families are displaced inland due to housing costs.

The high cost of accommodation along the coast presents a significant barrier for many households. The supply of affordable rooms fails to meet the demand of millions of residents who do not live close enough to the coast to make a daytrip. Over the past decade, many budget hotels along the coast have closed or have been refurbished and raised their prices well beyond what many families can afford. Economy class hotels along the coast have closed at a far greater rate than other, more expensive types of accommodations. Many previous studies point to a significant decline in the number of overnight coastal accommodations that are affordable (defined as 75% of the average daily price for a hotel room in California, which was $137 a night in summer 2018). The lack of such options means that some households who would otherwise visit the coast cannot, because they cannot afford the cost of an overnight stay (Figure E1 below).

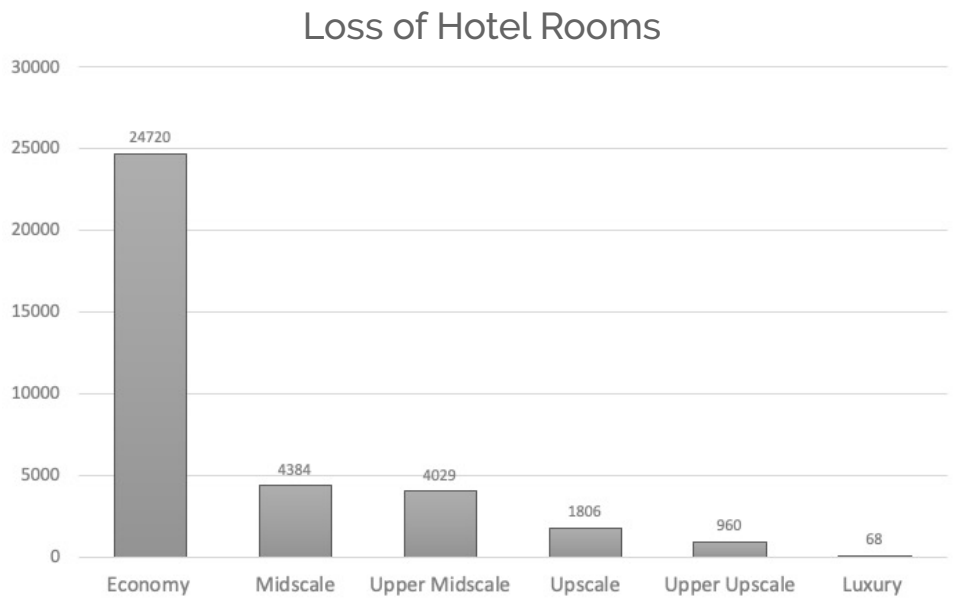


Figure E1: Loss of hotel rooms in California by class (Ainsworth 2016).

3 1976 California Coastal Act, Section 30210

During the high season—from mid-June until September—prices are often much higher than at other periods (see Figure E2 below). The supply of coastal hotel rooms is particularly strained during the summer when there are not enough hotel rooms of any class let alone those classified as lower cost. Hotels respond to this demand with increased prices. An accommodation that may have been affordable to a lower-income family in February is far out of reach in July when most Californians wish to visit the coast.

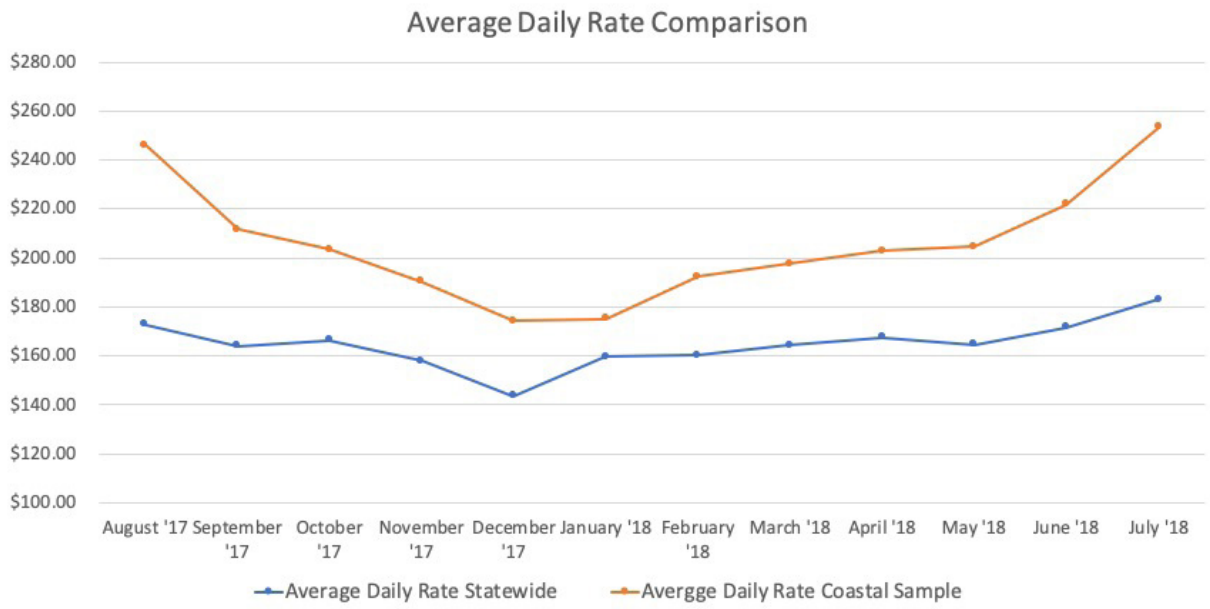


Figure E2: Average daily rate for overnight accommodation in California: coastal and non-coastal.

Camping may provide an option for some households seeking lower cost accommodation. However, coastal campsites are also very limited, especially in summer, and some are under threat from coastal erosion. The supply of campsites in California has not kept up with demand, especially in high season. Moreover, even though booking a campsite is affordable, it requires costly equipment that may exclude many families and often requires one to make reservations well in advance. Studies of camping participation also indicate that despite the relatively low cost, participation in camping also skews heavily towards more affluent groups and away from communities of color.

The lack of affordable accommodation along the coast creates a significant barrier to coastal access and makes it harder for families to visit. Given this challenge, it is imperative that California explore alternative means to expand the supply of lower cost coastal accommodations.

Alternative Options: Short-Term Rentals

One possible solution to the lack of affordable overnight accommodations on the coast are short-term rentals (STRs). Unlike campsites or hotels, expanding the number of STRs does not require new construction on or near California's coastline but instead utilizes existing properties. Rentals allow for the use of property otherwise unoccupied and may offer much needed income to hosts in expensive coastal communities. STRs have been providing accommodation for Californians wishing to visit the coast for decades, offering a significantly different experience than staying in a hotel or camping. Indeed, the California Coastal Plan, which laid the groundwork for the California Coastal Act, mentions home-sharing as a means of coastal access dating back prior to 1975. In addition, STRs may be especially suited to families or larger groups as they often offer kitchens, gathering spaces, multiple bedrooms and bathrooms, and are often less expensive per visitor than a hotel room.

As indicated in the literature review in this study, empirical studies of STRs indicate that the entry of STRs typically results in lower hotel rates, especially at peak periods. STRs offer competition and a flexible supply, which can be scaled to meet demand more easily. Hotels respond to this competition by lowering their prices. This benefits all visitors, including those who do not utilize the rentals. Furthermore, STRs can bring in visitors who may not have been able to access the coast before or may have chosen not to due to the difficulty of finding accommodation in the high season or desiring the specific amenities they can find at an STR.

Short-term rentals also make sense economically in communities where demand is highly seasonal as is the case with many coastal communities where beach and other recreation peaks in the summer. Building new hotels to serve a demand for a few months of the year makes little sense, and hotels must charge high rates in peak summer months to remain economically viable.

Short-term rentals have become more popular along California's coast and elsewhere as online platforms make it easier for potential visitors to locate, evaluate (through photos, maps, and other guest ratings), and book a property all in a few minutes. The recent popularity of STRs has also led to concerns in local communities about the character of neighborhoods that have traditionally been composed of single-family dwellings occupied by one family. Coastal communities up and down California have struggled with how to regulate STRs.

The Housing Crisis and Coastal Affordability

California's housing crisis is most acute in the Coastal region, near rapidly growing economic powerhouse cities such as San Francisco and Los Angeles. In these cities, demand for housing has far surpassed supply. Due to a combination of regulatory lags, permitting issues, and pushback against higher density construction and up-zoning, there has not been a substantial increase in housing construction necessary to meet this demand. Local authorities face pressure from many residents who worry about the burdens associated with expanding the supply of housing. As a result, housing has become scarce and prices have skyrocketed.

Rising housing costs have displaced many middle- and low-income residents inland. This means that many Californians, including nurses, police, teachers, and service workers, cannot afford to live where they work and must suffer long commutes. This displacement often results in a concentration of exclusive wealth and resources along the accessible only by the wealthy. This report focuses on the lack of access to California's coast.

Several key studies by the California Coastal Conservancy, the Coastal Commission, and others have highlighted this access issue and all point out that the increased cost of coastal access falls disproportionately on low- and moderate- income households as well as communities that have been historically excluded or discouraged from going to the coast, such as Latino residents and people of color. Latino Californians in particular desire to visit the coast but are especially sensitive to the high costs of travel and accommodation. As discussed in this report, the counties of California's Inland Empire, where a visit to the coast on a hot summer day likely requires an overnight trip, are virtually all Latino majorities. For many inland families, the cost of a necessary overnight stay is a major impediment to visiting the beach.

Indeed, California's coast has become increasingly inaccessible—with the majority of areas far more affluent, less diverse, and older than the state overall. This exclusivity produces an inequity that runs counter to the aims of the California Coastal Act. Access to the resources and opportunities associated with California's coast is not distributed fairly among California's diverse population. Often, those who can afford to spend the least to visit the coast must spend the most as lower-income communities inland face the highest travel costs and accommodation burdens.

As the case studies in this report indicate, cities that have become less and less affordable, like Santa Barbara or Del Mar, have also enacted restrictive legislation limiting short-term rentals. Just as these cities have often imposed restrictive ordinances and zoning laws to limit affordable housing for their residents, they have also imposed similar restrictions on short-term rentals with similar results.

Financial Resilience

As communities across California discuss and debate adapting to climate change, one issue is clear: adaptation will be expensive. For example, a recent study (Aerts et al. 2018) estimated that Los Angeles County will face climate change costs of $4.3 to $6.4 billion by 2100. All of these expenses will be on top of existing financial obligations for education, public safety, affordable housing and many other issues facing California today. Local governments will need new or enhanced sources of revenue to pay their share of climate resilience.

The California Coastal Commission and Coastal Conservancy have sponsored work on numerous local coastal programs (LCPs) aimed at helping coastal communities adapt to sea level rise. While these LCPs differ, all have one thing in common—their implementation will be costly and must be financed somehow, including local participation.

Transient occupancy taxes (TOTs) offer local governments a revenue stream that can easily grow. Unlike property taxes or sales taxes, in California 100% of TOT revenues go to local communities. While TOT rates vary by local jurisdiction, most coastal communities in southern California have a TOT rate of at least 12%. However, efforts to block STRs often lead to the development of black or grey markets where STR operators do not pay TOTs to their local community. This deprives these communities of revenues necessary to fund the additional public services required, such as lifeguards, public safety, improving beaches or other facilities.

Encouraging coastal communities to make STRs properly regulated and tax-paying is critical for financing resilience. Expanding STRs not only increases access but also increases financial resilience through increases in TOT revenues. Moreover, as discussed in detail in this report, other potential sources of local financing, e.g., Geologic and Hazard Abatement Districts (GHADs) or other levies on property taxes tend to promote resilience pathways that protect private property (e.g., armoring) at the expense of public property.

Coastal California Case Studies

The case studies provided in this report illustrate some of the issues facing coastal communities. All communities want to keep their residents safe and preserve their environment. However, some communities have done so in a manner that excludes many visitors, particularly lower income households, erecting barriers to entry such as high permitting fees for STRs and severe restrictions on who can offer STRs and in what neighborhoods.

The STRs policies of three distinct regions along California's coast were examined, and each provides a specific understanding of the impacts of local policy on the affordability of STRs. As these case studies indicate, short-term rentals can coexist with residential neighbors. Oceanside's Good Neighbor Policy for short-term rentals provides an excellent example. The city has strict policies on issues that matter to local residents, including trash, parking, noise, and extra visitors. Oceanside's Good Neighbor Policy includes serious fines for people who violate these rules.

Another common argument against STRs is that they drive up local real estate prices, facilitating gentrification. Some empirical studies indicate STRs can have a modest impact on property values, but these impacts must be taken into context. The residential real estate in most of these coastal communities is already beyond the means of the vast majority of Californians. Therefore, reducing STRs in coastal communities simply reduces access to those who cannot afford to buy such properties but can afford to rent them for a short time. Indeed, in our case studies, communities, such as Del Mar and Santa Barbara which already have significantly higher home prices, higher rents, and higher median incomes, were also the same communities which placed more serious restrictions on STRs.

North San Diego County

The first case study in this report examined five coastal communities in North San Diego County: Del Mar, Solana Beach, Encinitas, Carlsbad, and Oceanside. All of these communities are very popular beach destinations in the summer and have significant regulations on STRs. Our analysis of STR policies in North San Diego County indicates that communities that have restricted short-term rentals the most have the highest overnight rates. The City of Oceanside has more affordable accommodations than its neighbors to the south while at the same time also providing more affordable accommodations for its long-term residents as well.

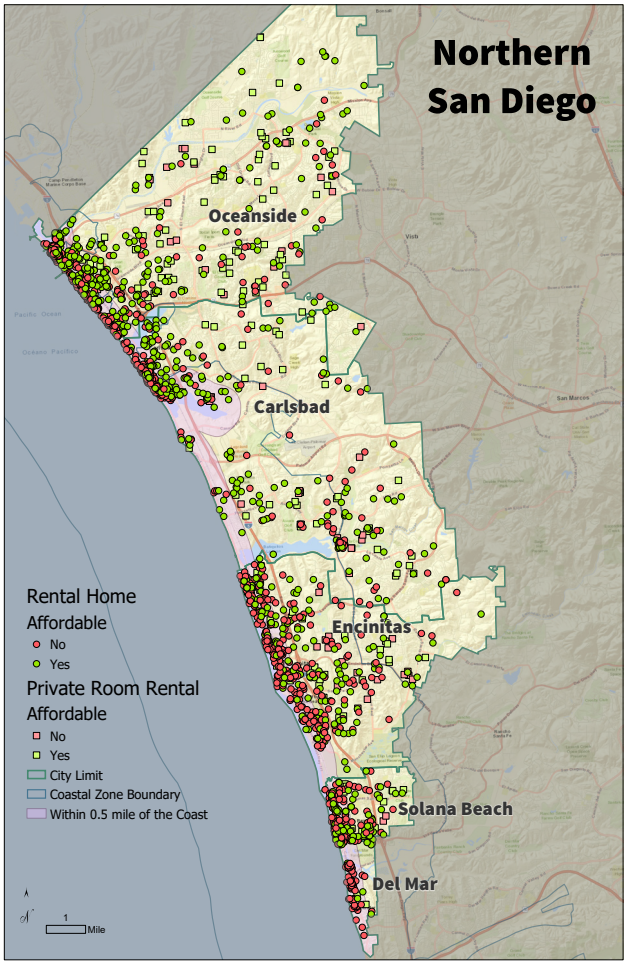


Figure E3: Affordability of STRs in North San Diego County.

Figure E3 above graphically illustrates the affordability issue in North San Diego County. The darker (redder) areas indicate more affordability; the lighter (more yellow) areas indicate less affordability. As one would expect, the areas along the coast are less affordable. However, pockets of affordability still remain farther north, particularly in Oceanside, which has a more accommodating STR policy. On the other hand, more exclusive communities like Del Mar offer fewer affordable overnight accommodations.

City of Santa Barbara

In Santa Barbara the regulatory environment is particularly difficult. The city's enforcement and zoning policies towards STRs has been described as a "ban" since STRs are classified as hotels. As a result, STRs are only permitted in areas zoned for hotels, and operators are required to submit to many of the same regulations as a hotel owner, including frequent inspections and renovations. Since 2015 the city has begun aggressively enforcing this zoning ordinance. This policy has resulted in a lack of affordable accommodation in the City of Santa Barbara since few areas are zoned for hotels. The added enforcement risk to operators has reduced supply and increased costs, reducing affordability. The maps in Figures E4 and E5 below show the results of Santa Barbara's restrictive STR policies. There are few affordable accommodations, and those that are available are away from the coast. Easing STR regulations, and thereby allowing a greater supply of STRs in other areas of the city, would significantly increase affordability and access.

Recently, the ban on STRs in Santa Barbara's coastal zone was overturned in the Kracke v. The City of Santa Barbara case. Judge Borrell ruled that the enforcement significantly changed the ability for Californians to visit and access the coast and that such a development would have required the approval of the California Coastal Commission. The ruling effectively allows rentals in the coastal zone to be operated immediately in the same manner as they were prior to 2015 during when operators obtained a permit and collected TOTs. The city is appealing the ruling.

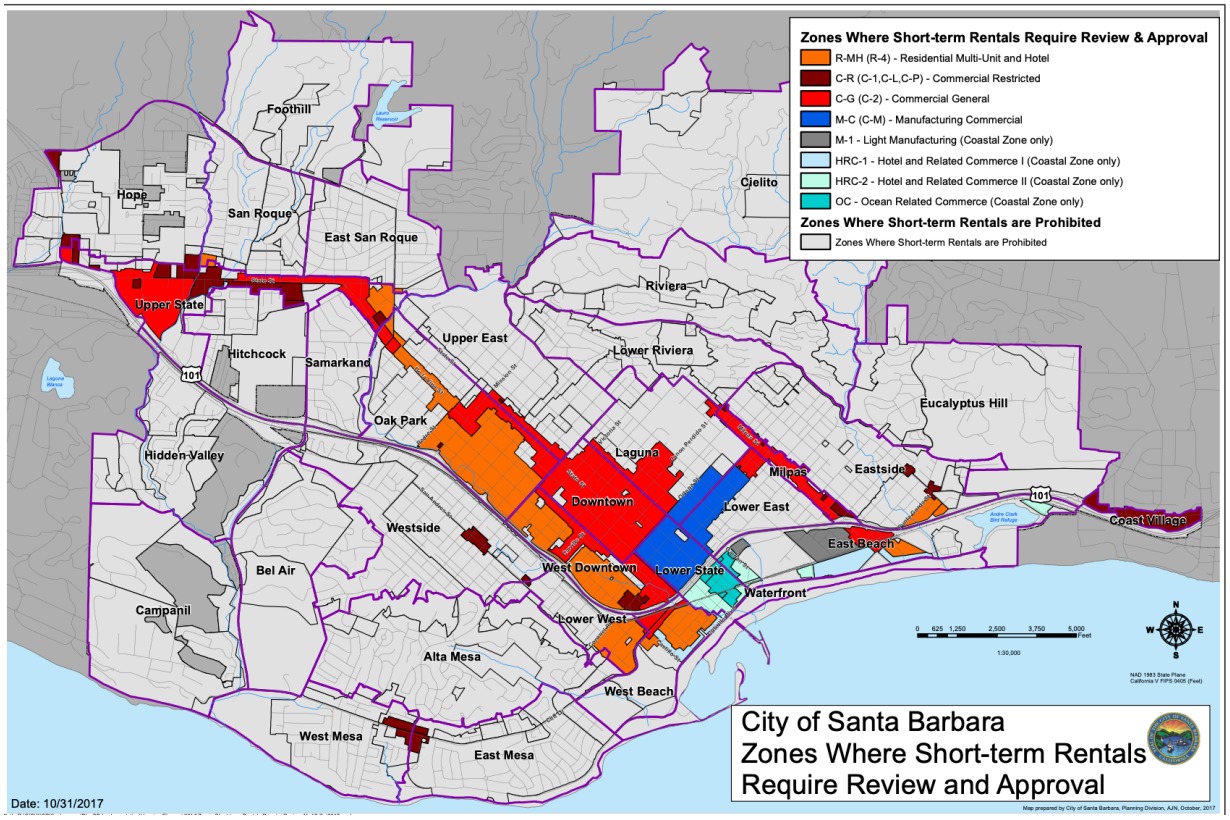


Figure E4: Santa Barbara's zoning limits STRs to areas already zoned for hotels.

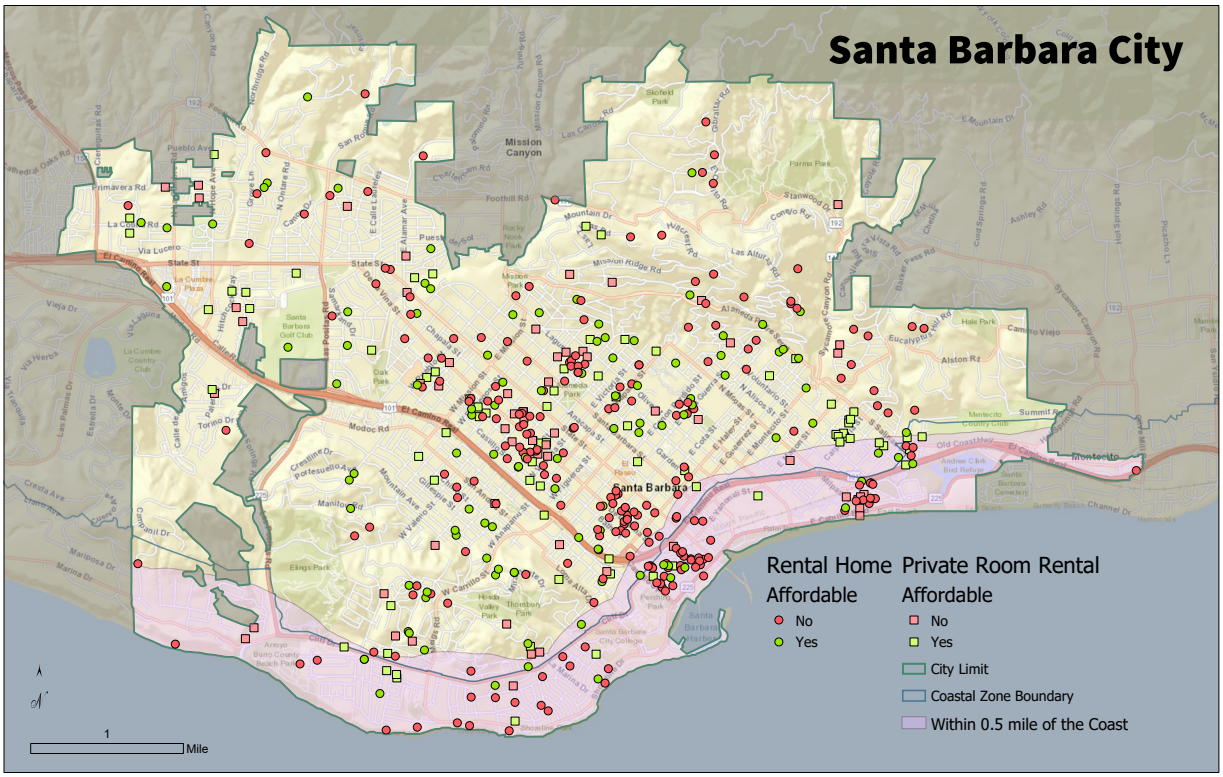


Figure E5: Affordability of STRs during peak season in Santa Barbara.

City of Pismo Beach

The California Coastal Commission has suggested that Pismo Beach's short-term rental ordinance is a model for other communities. However, as this study indicates, Pismo Beaches' permitting fees, coupled with a required business tax, imply that STR landlords must pay over $450 for the right to rent out their property even if only for a week or two. The high fees represent an obstacle and possible deterrent to residents who might consider home sharing as a means to supplement their income. This might explain why Pismo Beach's STRs are less affordable than many other communities in this study.

Regulations on short-term rentals can help communities promote public safety alongside access and respond to the valid complaints of residents around issues such as noise, traffic, etc. These regulations, however, should not constitute barriers or bans which prohibit STRs or make STRs too expensive for low and moderate-income families, thus reducing coastal access. A well-regulated supply of STRs can also provide significant revenues for local communities in the form of transient occupancy taxes (TOTs). In addition to paying for the increased costs of public safety, these revenues can be used by coastal communities to help strengthen resilience in order to adapt to sea level rise.

Potential Solutions and Recommendations

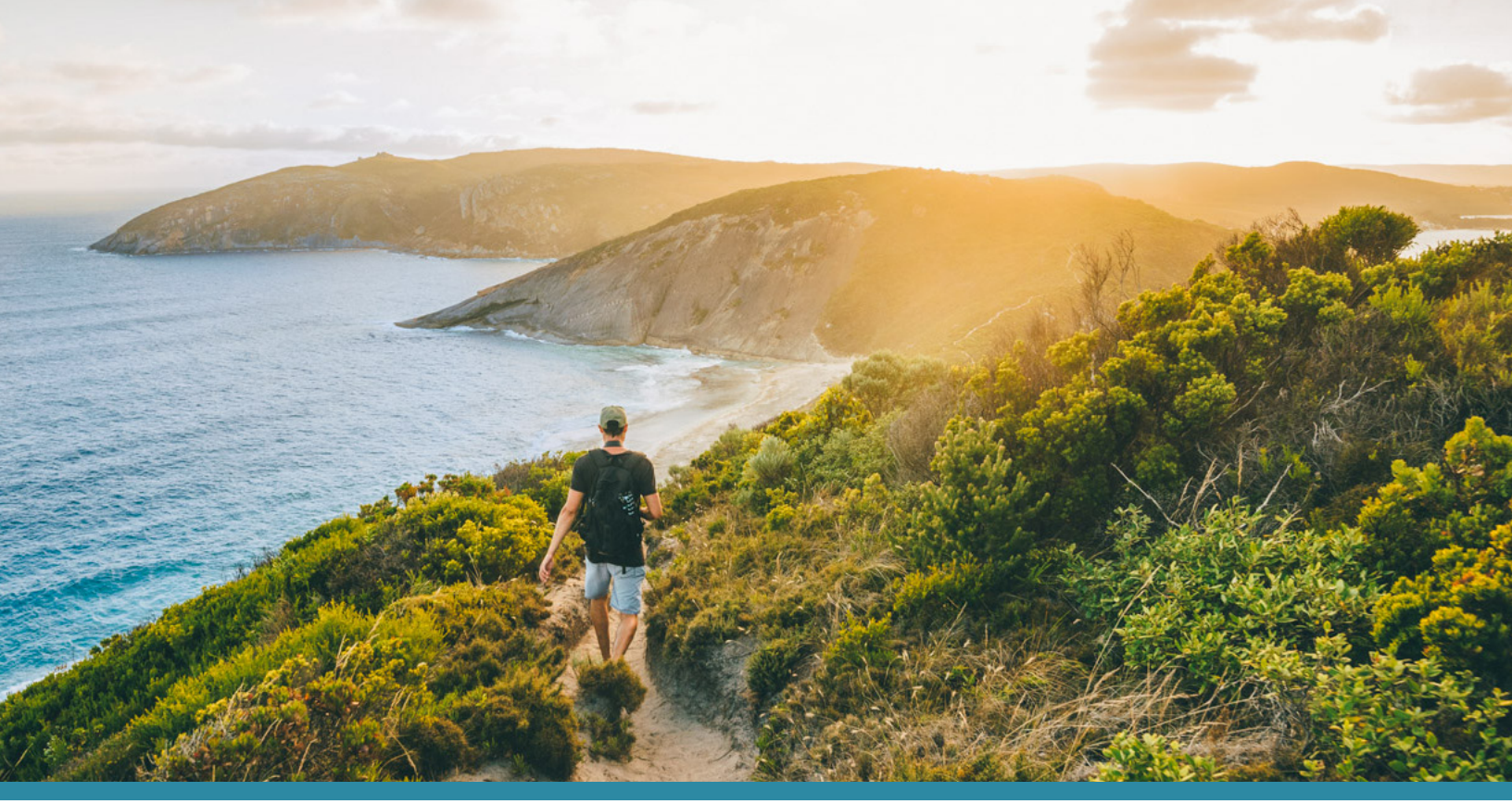
After evaluating the impacts of regulations on the availability and affordability of STRs, this report makes the following recommendations for how local jurisdictions can maximize access to the coast. These simple policy changes will help reduce the costs, delays, and confusion, thereby encouraging compliance and regulations as well as affordability.

Best Practice	Rationale
Simple, streamlined registration	Reduces the costs to operators, costs which are passed on to renters and reduce affordability
Make permitting easy and swift	Allows for more affordability by making it easier to increase the supply of STRs; also encourages registration with the City
Cities require TOT payment and cooperate with STR platforms where possible	Ensures TOTs are collected from all operators
Allow STRs in most or all coastal neighborhoods	Increases affordability near the coast, helping increase coastal access for those who need it most
No minimum on number of nights	Ensures that families who cannot afford multiple nights can still visit the coast
Maximum night cap of 180 nights or more. No night cap on shared space rentals	Helps promote affordability via greater supply of STRs, supported by Commission
Ensure compliance with "Good Neighbor Policies" and make renters aware of rules	Promotes harmony between STRs and the residents neighboring them, and promotes public safety
Require parking be provided by STRs where reasonable	Reduces traffic associated with STRs and promotes agreement with local residents. Reduces parking costs for visitors

The City of Oceanside's Good Neighbor Policy (in appendix) and other policies generally provide a good example for other cities to follow when implementing STR policies. In communities where parking is an issue, communities should require STRs come with adequate parking depending upon the number of guests. These same communities may also wish to encourage transportation modes other than cars, such as local buses and shuttles, bike rentals, etc.

Additionally, this report recommends that the state, local governments, and non-governmental organizations (NGOs) play an active role in developing programs that target underserved communities and households with low or moderate income in order to increase the affordability of, and hence access to, the coast.

Recommendation	Rationale
State agencies, local governments, foundations and community organizations could **support and fund programs that encourage or subsidize low-income families or those from underserved communities to stay overnight near the coast.** STRs should be part of the solution.	Cooperation with NGOs helps these programs reach those most in need of easy access to the coast. STRs better serve large groups and families and provide additional amenities for families. Many STRs are more affordable.
Expand the Explore the Coast Overnight Program to include STRs, and include STRs in other pilot programs	It is easier to expand the supply of affordable accommodations through STRs, unlike other lodging, which requires new construction on the coast.
Create **affordable STR program with eligibility criteria.**	Establishing eligibility criteria ensures that Californians most in need of affordable accommodation have access.



Access Issues on the California Coast

The Coastal Act

California's beaches have an almost mythological allure worldwide. The California coastline is not only a crucial aspect of the identity of the state and its residents but also one of its prized tourist attractions. Millions flock to the state's beaches every year, especially during the peak summer season. In fact, of the more than 200 million in-state leisure trips California residents took in 2016, over 20% were to the beach (Conservancy 2019, 14).

As the California population continues to grow, especially inland where summer temperatures are increasingly hot, beach trips will likely become even more popular, but only if Californians can afford to visit. Access to the coast is threatened by rising costs. A 2017 study found that 62% of California families felt that a visit to the coast is simply too expensive (Christensen & King 2017, 3). These families are primarily concerned with the high costs of parking and lodging along the coast, a problem which is especially concerning for minority residents and residents of inland counties (Christensen & King 2017, 3). The high cost of a coastal visit can mean that middle- and low-income families cannot afford coastal access at all.

This disparity is especially disheartening in a state where access to the coast is guaranteed by law. In California, the coast (below the mean high tide line) and waterways are public land and intended for beneficial public use. The 1976 California Coastal Act aims to protect California's beaches and coastline and promote visitation. The California Coastal Act defines the coast as a "distinct and valuable resource belonging to all" and ensures

> "maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights." (Coastal Act, Section 30210)

The Coastal Act not only places importance on coastal protection but also includes an imperative mandate that all Californians should have maximum access to coastal recreation regardless of income.

Several recent reports by the California Coastal Commission and the California Coastal Conservancy noted that this mandate goes above and beyond protection and preservation. It necessitates the promotion of access for those who would otherwise be unable to afford it. Specifically, the California Coastal Act requires the protection, encouragement, and "where feasible" provision of "lower cost visitor and recreation facilities" (Conservancy 2019, 14; Ainsworth 2016, 1). This stipulation in the California Coastal Act gives the State government the capacity to ensure and protect access to the coast. The requirement for the preservation and provision of lower cost facilities is vital to providing equitable access to all Californians. Without lower cost overnight accommodations, many individuals with low or moderate incomes will be, and in many cases already are, unable to afford the high cost of visiting the coast. This results in unjust inequity (Ainsworth 2016, 8). It is not sufficient for the coast to be legally accessible by the public; there must be a diverse set of options that allow everyone, regardless of income, an ability to access the coast. Presently, the majority of Californians cannot afford overnight accommodations in coastal areas (Ainsworth 2016, 24).

Despite the California Coastal Act's promise of access for all, inequity persists and is perhaps more pervasive than in recent decades. The high cost of living in coastal counties has pushed lower and moderate-income Californians inland. This has resulted in longer drives and in many cases, requires an overnight stay if families wish to visit the coast. **Desire to visit the coast is relatively high among all of California's diverse demographics, yet important barriers to access persist which make visits to the coast too costly for lower income communities.** In fact, one study found 62% of California voters perceive coastal access as a problem (Christensen & King 2017, 3). Historically, public access has been unequally distributed among different groups. High land costs and explosive economic growth on and near the coast have exacerbated this situation. While the Coastal Act aimed to remedy these issues, it has fallen short.

The Coastal Act's stipulation for lower cost facilities includes the promotion, preservation, and provision of lower cost overnight accommodations (Ainsworth 2016, 1). These protections are meant to address one of the most significant barriers facing visitors to the beach: the cost of overnight accommodation and the scarcity of alternative, affordable accommodations. As mentioned, many low- and middle-income Californians have to travel greater distances to reach the coast and may need accommodation. This is a pressing issue as income inequality in the state

deepens. In a recent survey, 75% of respondents cited the lack of lower cost accommodation options as a reason they do not visit the coast as much as they would like (Christensen & King 2017, 3). Travel costs—the chief barrier to coastal access—are not equitably distributed among California's diverse demographics. High costs to travel to and stay in coastal communities more heavily burden lower income populations and prohibit some from visiting.

Associated Costs and the Value of Beach Recreation

Although the California Coastal Act guarantees access to the coast to all Californians, recent studies show that costs associated with visiting the coast impose barriers that prevent many lower income and minority communities from visiting. Many families, despite strong desire to visit the coast, simply cannot accommodate high nightly rental rates into their budgets. Understanding the value California residents place on a trip to the coast will better help to illustrate the significance of high costs.

Californians visit the coast for many reasons; the coast provides recreational opportunities, which benefit psychological and physiological health as well as provide much needed leisure, a connection to the ocean, and an escape from the scorching summers inland (Christensen & King 2017, 3; Reineman 2016, 91). In other words, all visitors place some value on their visits—although perhaps not in dollars. This value is not always fully captured in the cost of the trip, especially since beaches in California are generally free. Thus, coastal visits have a non-market value, or a worth to visitors that is not explicit in commercial costs. Understanding the value of a beach trip can help illustrate the decisions which go into a visit, allowing economists to model consumer surplus. In this case, consumer surplus is the value of the visit once the costs have been accounted for, or how much "bang for your buck."

While the average visitor may not calculate their exact costs and associate an explicit, monetary value to their visit, costs do play a role in decisions to visit the coast. The amount a visitor is willing to pay for a trip can reveal the implicit value of the trip (Christensen & King 2017,5; Medford 2018). This is especially important regarding trips to the beach, as beach access is generally free and thus has a "non-market value." Economists have developed a wide variety of models to estimate the "non-market value" of visiting natural resources where access is free. One of the most common models is the "travel cost model." In a 2017 survey, Christensen and King used this model to conduct an intercept survey of select beaches in Southern California to estimate a visitor's "willingness to pay" (WTP) to visit the coast.

Researchers have compared the value of a beach visit to the associated costs to better understand the economic barriers that impact coastal access (Christensen & King 2017; Medford 2018). Medford (2018, 3) determined the value of beach recreation in Southern California using a visitor's choice of site and the number of trips taken to reveal his/her willingness to pay, and thus, the value assigned to the trip. The study found higher income demographics have a higher willingness and ability to pay for coastal accommodation. Medford (2018) sought to understand how consumer surplus and WTP varied by ethnic and racial group—an important aspect of creating equity in coastal access. Minority populations historically have faced both cultural and

legal barriers to beach access. These barriers have carried over into feelings of marginalization and being unwelcome, resulting in a lower desire to visit. Medford (2018, 1) found evidence of this phenomenon, noting that Black and Asian populations on average visit the beach less. More significant than race alone, however, was "travel cost." Minority groups were on average more responsive to high travel costs. Higher sensitivity to travel cost suggests these populations derive a lower consumer surplus, or benefit, from their visits. In order to ensure access for all Californians, these preferences need to be taken into account.

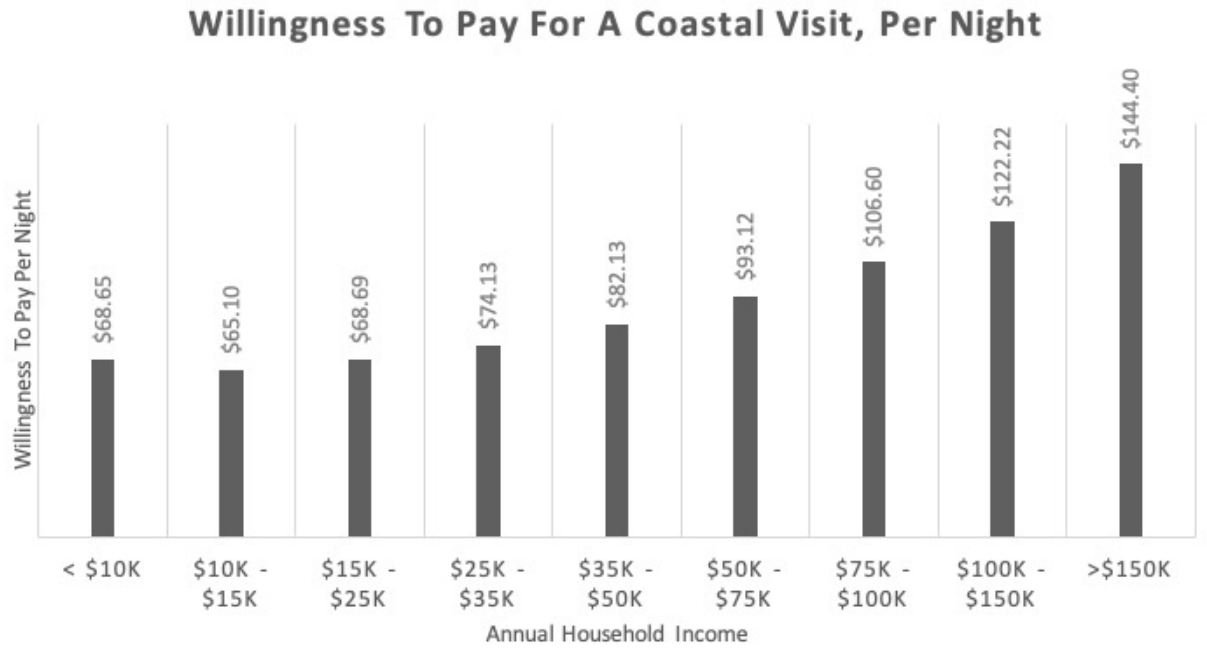


Figure 1: Willingness to pay for a visit to select Southern California beaches by income bracket (Christensen & King, 2017).

Latino residents in particular consider the cost of accommodation as a major barrier to visiting the coast. Christensen and King (2017) found that Latino voters rated affordable accommodation a major issue and were on average able to pay $16 less per night than respondents overall. This is especially significant during the summer holidays when demand for coastal recreation is at its peak and prices are the highest. Latino populations are especially vulnerable to the lack of affordable coastal accommodations given that Latinos in California have a 52% lower median income, at $51,853 in 2017, compared to the median income for white, non-Latino residents of $78,903 according to the latest numbers (US American Community Survey, 2017).

For households in Southern California's non-coastal counties—particularly those with high Latino populations, such as the Inland Empire—access to affordable overnight accommodations is critical since accessing the coast for a daytrip is difficult given traffic patterns and travel costs. According to data from the U.S. Census 2018 American Community Survey (ACS), Latino households make up the majority of the population in virtually all Southern California inland counties. Table 1 below shows these counties have a higher percentage of Latino households than the rest of the state overall.

Table 1: Latino/Latino Residents as a Percentage of Population in Southern California Inland Counties. Data from the U.S. Census 2018 American Community Survey.

County	Total Population	Latino Population	Percent Latino, 2018 ACS
Fresno	994,400	531,677	53.5
Imperial	181,827	153,757	84.6
Kern	896,764	483,846	54
Kings	151,366	83,200	55
Madera	157,672	91,939	58.3
Merced	274,765	165,438	60.2
Riverside	2,450,758	1,214,445	49.6
San Bernardino	2,171,603	1,171,925	54
Tulare	465,861	303,657	65.2
Southern Valley	**7,745,016**	**4,199,884**	**54%**
Rest of State	**31,301,112**	**11,211,879**	**36%**
California, total	**39,557,045**	**15,540,142**	**39.3%**

While high travel and accommodation costs are particularly significant for residents of inland counties, these costs weigh heavily in planning a coastal visit for all California residents. Naturally, if the associated costs of the trip are too high, those with fewer means would choose not to go. Survey work from UCLA on beachgoers found this to be the case, concluding that lodging and transportation costs are the paramount concerns, and indeed barriers, to beach access (Christensen & King 2017, 4). While the UCLA study did not analyze lodging costs, they illustrated part of the affordability problem. They "calculated that the average value of a multi-day trip to the coast was $605.05, meaning that visitors were on average willing to budget roughly $605 for the trip. Round trip travel costs amount to on average $194.41—not including the price of overnight stays—leaving $410.64 in the typical budget for all other expenses. With overnight visitors staying an average of four nights on the coast, the surplus value 'left over for accommodations is just $102.66 per day'" (Christensen & King 2017, 6). That $102 is likely insufficient as many coastal zone accommodations ask more in their daily rate. Furthermore, that nightly rate leaves nothing left over for excursions or even food.

The already high costs of lodging on the coast are prone to increases as demand for coastal accommodation exceeds supply. Hotels dramatically raise rates during the peak season, making it even harder for the majority of Californians to visit the coast. While this creates a barrier for many Californians to visit the coast, the UCLA study also found that willingness to pay for lodging

increases with income where wealthier populations are willing to pay premiums. For the aims of the Coastal Act to be met, accommodations need to exist along the coast that offer lodging for more than just the wealthy.

Lack of Supply of Affordable Accommodation

The cost of coastal accommodations concerns the majority of visitors to the beach. High travel costs—and in particular the exorbitant cost of lodging on the coast—can prohibit coastal visits and impede access to the coast. In fact, the only California populations who reliably stay on the coast are white, age 55 or older, who earn more than $200,000 annually (Conservancy 2019, 16). Another study found that this demographic already has higher ability to access the coast. Reineman (2016, 101) mapped census demographics in relation to coastal access points and found that "by virtue of their place of residence, white, wealthy, senior Californians live disproportionately closer to public coastal access points than other groups" (Reineman 2016, 99). The coast, according to this research, is overwhelmingly white and is also predominantly wealthy. The average annual household income increases with proximity to the coast, such that those living closest to the ocean make 20% more than the state average, and low income communities are largely concentrated inland (Reineman 2016, 97). Inland Californians, therefore, face not only higher travel costs but also a greater cost burden in comparison to their incomes. This compounds coastal access inequality.

Inland California populations are on average less wealthy, younger, and more diverse than the communities on the coast. This is true for those in coastal counties but also for those who must travel much further to reach the coast, such as those who live in the San Joaquin or San Fernando Valley. As demonstrated in table 2 below, data from the US Census indicates that households in inland counties in southern California have annual incomes $25,000 lower than households in coastal counties, reducing their ability to afford a coastal visit. These are the communities most in need of affordable accommodation if all Californians are to have access to the coast. Recall that those of lower incomes budget less for a coastal trip, and this is especially true for communities of color. Compared to the communities with the closest proximity, and therefore easiest access to the coast, those who live inland face high travel costs coupled with fewer means.

Table 2: Demographic data from the U.S. Census shows that the California coastal population is wealthier, whiter, and older than the populations of inland counties.

Comparing California Coastal Communities to Inland Counties[4]			
	Age, Percent of Population Over 65	Percent White, Non-Latino	Average Median Household Income
Coastal Sample	16.3	49.2	$ 83,995.00
Inland Counties	12.3	34.0	$ 58,082.83

4 "Coastal Sample" includes the counties of Marin, San Francisco, San Mateo, Santa Cruz, Orange, and the cities of Monterey, Pismo Beach, San Diego, Oceanside, Los Angeles, Malibu, Long Beach, Oakland, Oxnard, and Huntington Beach. The "Inland Counties" are those counties within reasonable travel distance to the coast and large populations: Sacramento, Fresno, Riverside, San Bernardino, Stanislaus, and Merced. Bakersfield city was also included as Inland.

These Californians have to travel the furthest to the coast and therefore have the highest travel costs. At the same time, inland populations are less able to pay the high asking prices for accommodation (Christensen & King 2017, 4). According to US Census data, populous areas inland—including Sacramento, Fresno, San Bernardino, and Bakersfield—have lower median incomes and larger Latino populations than cities along the coast (see Table 2, above). Californians inland face higher travel costs with tighter budgets. Thus, it follows that inland populations visit less often, especially those from the Central Valley, "with 39 percent visiting less than once a year" (Christensen & King 2017, 3). If the aims of the 1976 California Coastal Act are to be met, more low-cost coastal accommodations need to be provided or else this disparity will persist.

Presently, those with greater means have more opportunities to access overnight accommodation and the coast itself, and this is not a result of their place of residence alone. There are simply not enough affordable accommodations on the coast, and during the peak summer season there is not enough accommodation overall. Lodging is often the most expensive part of a coastal vacation, making its scarcity critical. Publicly owned options can help keep the cost of accommodations low, but these are typically campsites or lodges and a few hostels. They act as a bulwark against the increasing lack of affordability on the coast, especially important given that the California coast has lost 24,720 economy hotel rooms since 1989[5], more than twice the number of non-economy rooms (Ainsworth 2016, 1). While the population in California has grown, affordable accommodation options for lower income residents on the coast have shrunk.

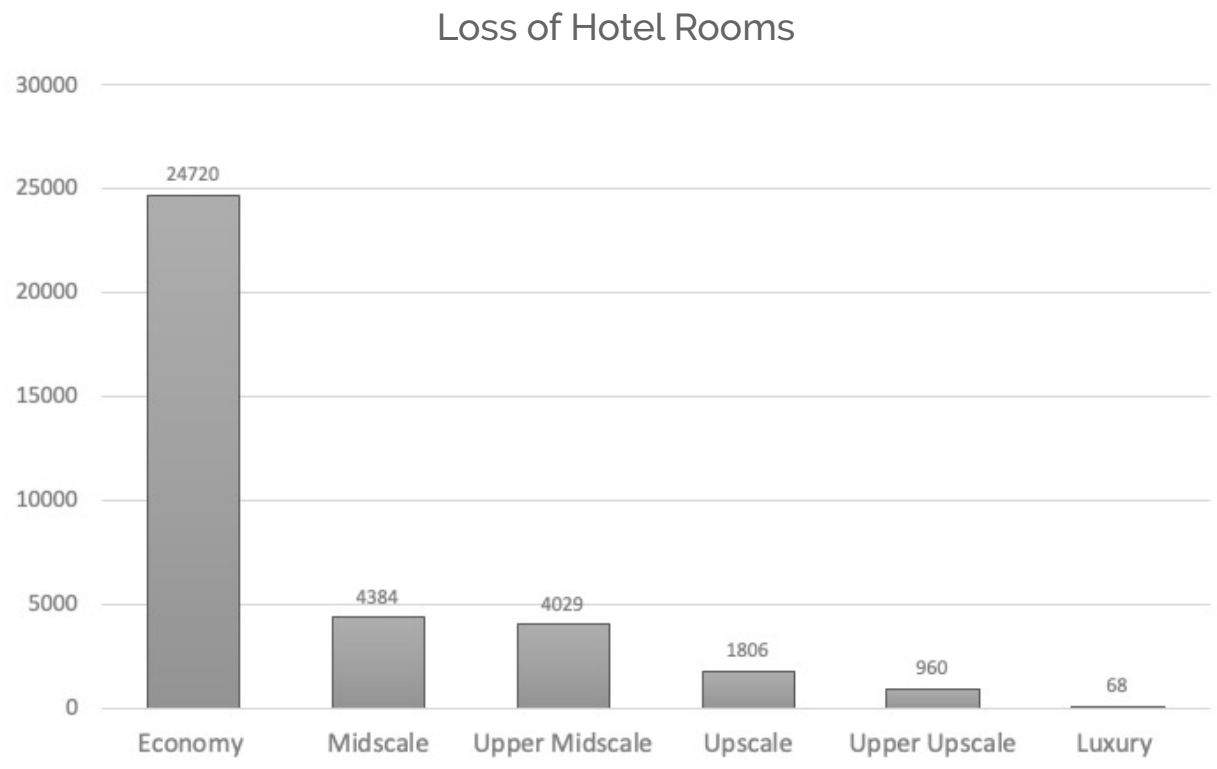


Figure 2: Loss of hotel rooms in California by class (Ainsworth 2016).

5 Ainsworth (2016) reported that nearly 70% of the rooms lost since 1989 have been economy rooms whereas 10% have been upscale and less than 0.2% luxury hotel rooms.

The existing accommodations on the coast are also under threat from rising property values and conversion to higher cost lodging. Lower cost hotels are critically threatened, closing at more than double the rate of moderate and high price hotels, resulting in the dramatic loss of hotel rooms indicated in Figure 2 (Ainsworth 2016, 1). They are being replaced by expensive condominiums, resorts, and hotels, thereby decreasing the supply of more affordable accommodations and increasing rates such that many coastal cities only offer 5% of the available rooms at a lower cost—those with a daily rate less than 75% of the California average, which qualifies a room as "affordable" (Ainsworth 2016, 2). Historically, low-cost accommodations were more accessible, but now the percentage of economy rooms has decreased dramatically with proximity to the coast. Furthermore, an "economy" room on the coast is likely to be more expensive than its equivalent inland. The supply of roughly 13,000 affordable overnight accommodations on the coast (only 7,500 rooms in Southern California) does not come close to matching the needs of the 12.6 million households within 150 miles of the coast, approximately half of which are low income (Conservancy 2019, 13). Staying overnight at the coast is simply unaffordable for many California residents. Presently, 45% of Californians find accommodation options on the coast to be too expensive or inconvenient (Conservancy 2019, 14).

The California Coastal Act's mandate allows the Coastal Commission some leeway in providing lower cost accommodation options, primarily in dealing with development. The Coastal Commission has required some builders of new hotel developments to construct 25% of their rooms to be designated as affordable rooms and assesses an in-lieu fee of $100,000 for lower cost rooms (Commission 2019, 25). Some hotels meet this requirement not by reducing the rates of their rooms, but with offsite solutions, such as hostels (OC Register; Commission 2019, 24). While this measure helps provide affordable options, it fails to match the preferences of the majority of beachgoers who wish for privacy. Instead, this policy essentially provides separate, and not equal, accommodations for low- and moderate-income groups. The replacement of lower cost hotels with hostels also creates a dichotomy for visitors and may prevent some from being able to visit (Commission 2019, 23). In this new scenario, mid-range accommodation options vanish.

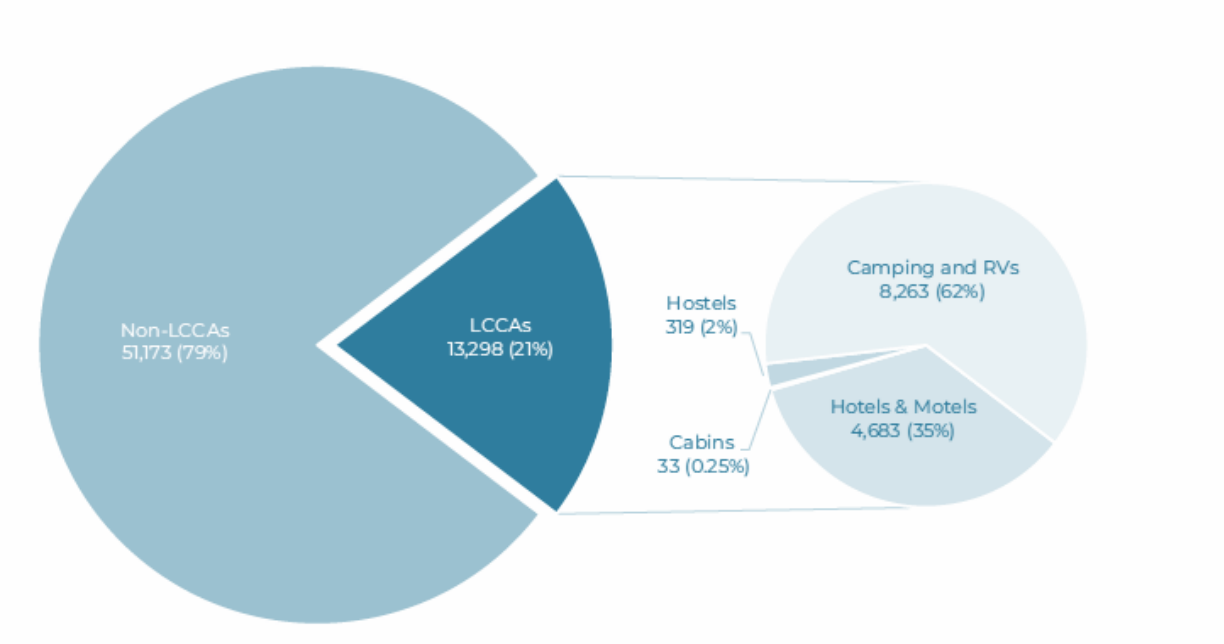
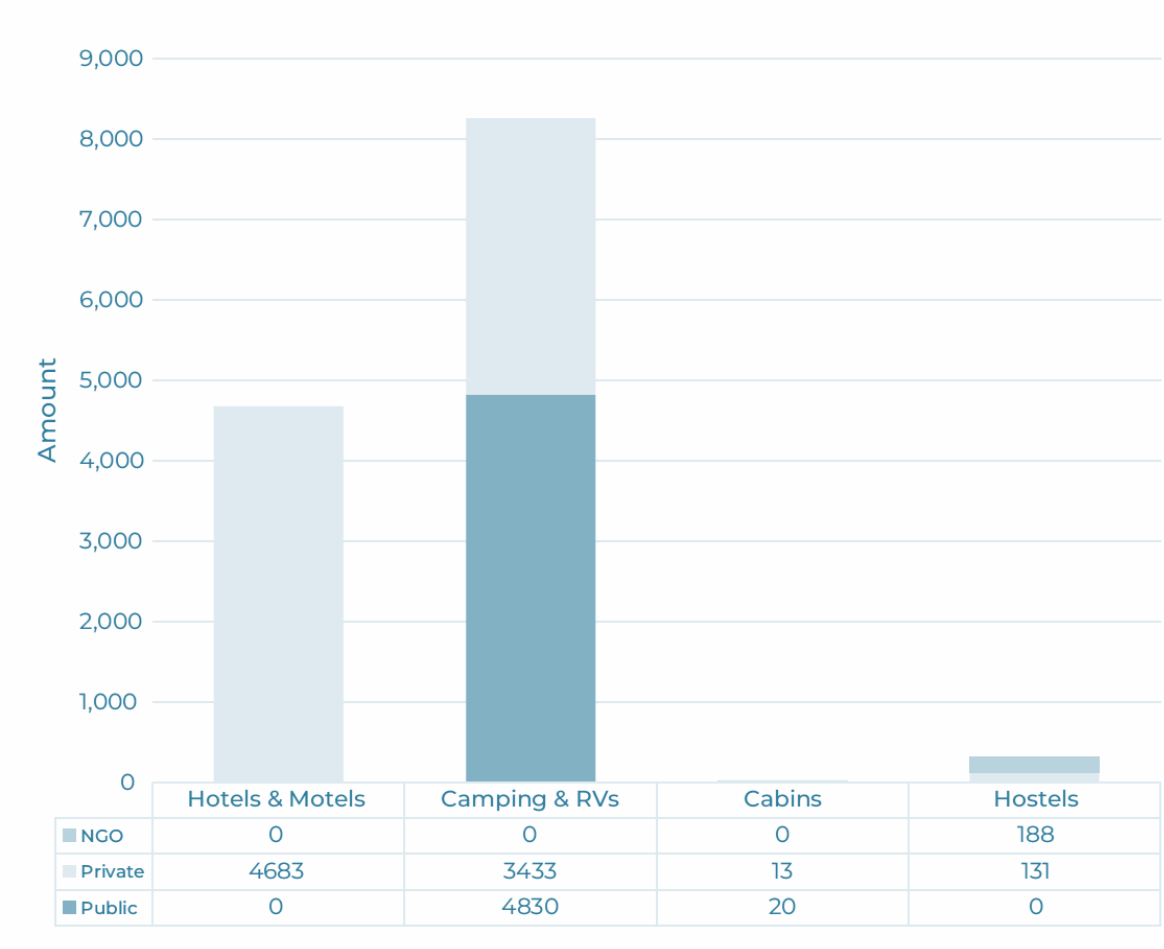


Figure 3: Distribution of lower cost coastal accommodation types (Conservancy 2019).

Furthermore, enforcement of the in-lieu fee often falls to local governments who see the policy as a suggestion rather than a rule (Access Denied, 2019). This results in developers getting away with drastically reducing the supply of affordable hotels along the coast without any hope of replacing those lost. Additionally, former commissioners interviewed by the Southern California public television station KCET explained that the fees collected, some $22 million, have been untouched despite plans to build lower cost options including campgrounds and hostels (Access Denied, 2019).

Sky high coastal property values motivate developers to build luxury condos and resorts rather than affordable hotels which may not be fully booked all year. Coastal communities seem to prefer these developments over those that would service lower-income residents. In one case, Malibu residents stymied the construction of a campground for foster children despite earmarked funding (Access Denied, 2019). However, when luxury developments curtail residents' access to beaches, public opposition combined with the backing of the Coastal Commission can prevent privatization, such as with the Miramar Hotel in Santa Barbara where the Commission threatened a fee of $11,000 a day for restricting access to the public beach (Access Denied, 2019). The Commission has the power to enforce the goals of the Coastal Act, but they are understaffed and often impeded by the actions of coastal municipalities.



	Hotels & Motels	Camping & RVs	Cabins	Hostels
NGO	0	0	0	188
Private	4683	3433	13	131
Public	0	4830	20	0

Figure 4: Accommodation ownership distribution on the coast (Conservancy 2019, 12).

The current supply of lower cost coastal accommodations also tends to fall disproportionately toward camping and RV parks. A recent study by the Coastal Conservancy focused on "lower coast coastal accommodations"—defined as those with a rate of 75% or less of the statewide average—and found that 62% of these options are camping or RV sites (Conservancy 2019, 11). These are often publicly owned. Campsites are in very high demand and often reserved long before the peak season begins. However, surveys of beachgoers reveal that many do not wish to camp or stay in a hostel (Ainsworth 2016, 12, 26). Others, especially those from low income or minority households, may lack the necessary camping equipment. The costs of starting to camp are high with the average first-time camper spending $181.61 for gear that first trip (Coleman 2017, 2). Camping, although a more affordable option, is not equitable either.

Furthermore, despite the lower fees for overnight camping, campers tend to skew toward more affluent groups and minority representation among campers is limited. Providing more campsites may not increase access for underserved groups as noted in one study which found 78% of campers were white (Coleman 2017, 8). While campgrounds continue to grow in popularity, they are not an option for everyone, nor do they meet the needs of all potential visitors. The majority of overnight beachgoers choose to stay in hotels (54%) or with friends or family (29%) (Christensen & King 2017, 6). Many campgrounds near the coast are also threatened by coastal erosion and campsites may be lost. For example, South Carlsbad State Beach in North San Diego County, has a number of campsites threatened by erosion.

Table 3: Availability of Lower Cost Coastal Accommodation Types vs. Demonstrated Demand (Christensen & King 2017, 6)

Type of Lodging	Popularity (Survey data)	Supply of LCAAs
Hotel/Motel/STR	54%	35%
Family or Friends	29%	N/A
Camping/RV/Boat	10%	62%
Visitors' Second Home	4%	N/A

A shortcoming of many coastal accommodations is the lack of facilities, such as kitchen access or group spaces. An overnight stay typically carries other costly expenses, especially the cost of eating out. Staying in a motel or hotel forces a family to dine out, which increases the cost of their visit. Alternative accommodation types can offer families the ability to cook and also can accommodate larger groups than a traditional hotel rooms, further reducing costs.

Overwhelmingly, studies of beachgoers illustrate that low-income and moderate-income families, people of color, and those from inland communities in California simply cannot afford to stay at the coast and therefore do not visit as much as they would like. Many barriers exist, such as the cost associated with travel and the lack of options for large groups or families. The lack of lower cost coastal accommodation in particular—and especially for those who do not wish to camp—creates a significant barrier for many Californians and undermines the aims of access for all.

Table 4: Insufficient Number of Lower Cost Coastal Accommodations in 2016, Coastal Conservancy

Number of Rooms in the Coastal Zone + 1mi	Population: Coastal Counties	Population: Inland
13,332	20,301,136	15,857,484



Figure 5: Lower cost coastal accommodations by county (Coastal Conservancy 2019).

At the same time, coastal accommodations also exhibit seasonality in prices; the cost of an overnight stay during the peak season from June to September is significantly higher than other times of the year. Hotels respond to increases in demand by increasing prices as they cannot readily adjust their supply of rooms (Zervas 2016, 1). The result is that while the travel costs associated with a visit to the coast for a family from inland California may not increase during peak season, it is likely the cost to stay overnight increases dramatically should they choose to stay at a hotel—if they can find a room.

In order to ensure all Californians have access to California's coast, one must recognize these demographic disparities. Indeed, it is not unreasonable to state that the biggest barriers to coastal access in the State of California are economic barriers: the cost of travel is highest for the families who can least afford to pay. Consequently, the State of California, in partnership with local communities and other stakeholders, needs to address these economic barriers to coastal access if it is committed to ensuring access for all. The state needs measures that promote easier access for low- and moderate-income families and communities who live inland, particularly families who cannot take a daytrip to the coast. Further, to achieve equity in access, California must address these barriers, and increase the volume of affordable accommodations, and identify strategies to decrease the price hikes during peak season.

Short-Term Rentals Aid in Providing Lower Cost Accommodations

Limits of the Coastal Act and an Alternative

Despite the mandate to promote, encourage, and provide affordable opportunities for coastal access, the California Coastal Act does not give the California Coastal Commission the authority to regulate the price of overnight accommodations. They lack oversight of private entities' rates to ensure affordability. In fact, the Coastal Act was amended in 1981 to prohibit the Commission from regulating the cost of overnight accommodations. The amendment expressly states that "the commission shall not [sic]: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities." This prohibits the Commission from interfering directly in the coastal accommodation market (Ainsworth 2016, 6) and makes it more challenging to provide lower cost accommodations, which are a necessary part of providing coastal access for all.

However, while the Commission lacks regulatory authority over the price of overnight accommodation, it can influence the supply of lodging. Increasing this supply, particularly if it encourages more affordable options, would reduce rates and increase access. Greater supply of affordable accommodations can provide competition and in turn help drive down nightly rates across all accommodation types along the coast. Various government agencies are in the process of making renovations and expansions to existing public options, such as campgrounds and cabins (Conservancy 2019; Christensen & King 2017). While these expansions will help to alleviate some of the burden, they do not address the "desire for privacy, comfort, convenience, or security" that

discourages some visitors from staying at lower cost coastal accommodations, such as campsites and hostels (Conservancy 2019, 18).

Hotels, motels, and the like on the coast are almost all privately owned—and expensive. In light of the lack of lower cost coastal accommodations and the need to expand access for all, the Commission has recognized the role of short-term rentals in providing distinct amenities and more affordable options (Schwing et al 2018, 2).

Despite their historical presence along the California coast, short-term rentals have not been thoroughly evaluated or considered as a means to help meet the state's demand for lower cost accommodations. There are a wide variety of such rentals at a range of costs more suited to the varying needs of consumers and the distinct attributes they may seek to find in an accommodation (Ainsworth 2016, 13; Midgett 2017, 64; Choi 2015, 16). The availability of short-term rentals brings a new selection of lodging options that may open up more opportunities for coastal access and reduce barriers in the form of more inexpensive coastal accommodations. They also offer a variety of accommodation types better suited to a wider range of travelers. For example, some groups may wish to cook their own food, which is rarely an option with traditional lodging options, and others may be part of a large group or family and be facing the prohibitive cost of two, three, or even four hotel rooms. Short-term rentals can help meet the needs of these travelers.

Short-term rentals (STRs) are not a new phenomenon. In fact, Californians have been using STRs to vacation at the beach for decades (Ainsworth 2016, 7; Midgett 2017, 55). The planning documents supporting the California Coastal Act mentions vacation home-sharing in 1975[6]. What has changed in recent years is the advent of new technologies to connect consumers and short-term rental operators, thus increasing the ability to short-term renting of residences that would otherwise sit empty (Midgett 2017, 54). This means that families can now more readily rent out a small beach house, with a variety of amenities, that might be another family's vacation home. A resource that would have sat unused now offers Californians the chance of a more affordable vacation.

Not only does the wide variety of short-term rental options draw consumers but so does the affordability. Price, as explored in the coastal surveys and research into hotels, is one of the major factors in accommodation selection and the decision to vacation overall (Choi 2015, 2; Christensen & King 2017, 6). Short-term rentals provide a lower cost option, especially for larger groups, families, and those who may not be able to afford hotel accommodations (Ainsworth 2016, 11, 13, 50; Renau 2018, 2; Choi 2015, 2). While there is wide variation in the cost of short-term rentals, the range largely reflects the variety in attributes and size. Rentals, in some studies, were not the lowest priced option[7]. However, when considering rentals as an option for families or larger groups, a home sleeping three to four people would, in many cases, be much more affordable than booking two rooms in a hotel[8]. This also does not take into account other benefits

6 From the California Coastal Plan of 1975, which outlines policy recommendations which became the California Coastal Act. (California Coastal Zone Conservation Commission 1975, 155) https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1090&context=caldocs_agencies

7 CBRE found that Airbnb rentals could be more expensive with "the average rate paid for an Airbnb unit over the 12 months ending in September 2015 was $148.42. This is 25% higher than the average hotel rate of $119.11. Part of the reason for higher rates can be attributed to the amenities found at some Airbnb units... 34% of the Airbnb units have 2 or more bedrooms and the rates for units with 2 or more rooms are offered at a considerable premium to single room units" (CBRE 2017, 10).

8 An entire home sleeping three to four people may cost US$60 a night in Paris on Airbnb (the median rate is US$96), making a family stay in the city far more affordable than booking two rooms in a hotel. This could help explain why the occupancy rate for entire homes is in general higher than for private rooms. In these cases, Airbnb is likely bringing into the market some visitors who would not otherwise have been able to afford to make the trip (Coyle et al. 16).

of home sharing—such as access to a kitchen, parking space(s), or perhaps even bikes or beach equipment—which impart an additional value to the visitor. Additionally, since many short-term rental services focus on the price-value relationship for the customer, they offer a better value than similarly priced hotels (Choi 2015, 2).

The increased affordability and flexibility of short-term rental accommodations offer low- and middle-income visitors more options. Studies have shown that many visitors would not have been able to go on vacation without access to STRs in a variety of locations (Renau 2018, 3; Interian 2016, 132; Coyle 16). Furthermore, given that families were especially sensitive to lodging costs on the California coast and often seek specific attributes and larger spaces, short-term rentals may be particularly crucial in increasing access for that demographic.

Short-Term Rentals Can Reduce Accommodation Costs and Increase Diversity of Supply

One of the most attractive features of short-term rentals is their value. Travelers are seeking the most "bang for their buck" on vacation, and often, rentals provide that. STRs meet the needs of many travelers for a diverse set of amenities and facilities. As mentioned earlier in this report, STRs provide a better value per visitor due to their increased capacity to host families and large groups and the wide range of amenities they offer visitors, such as parking, kitchen access, gathering spaces, etc. These facilities can help reduce the overall cost of a vacation.

The increased popularity of STRs benefits vacationers outright through better value but also by providing increased supply and perhaps competition to hotels, forcing them to lower their prices. In one of the landmark studies on this topic, Zervas examined hotel revenues and the Airbnb market in Texas and found that the impact of STRs appears most clearly in "less aggressive hotel room pricing," which benefits all travelers, including those who do not utilize STRs (Zervas 2016, 1).

The impact of STRs may not always negatively impact hotel revenues as STRs can bring in new visitors and help the tourism economy overall. Increasing demand for STRs reflects a desire for diverse options and better value; however, their presence can also indicate more demand for the area overall, which might counteract the reduction in average daily rates for hotels. Aznar found that more rentals correlated with an increase in hotel return on equity, explained by the fact that a high number of rentals indicates an attractive location (Aznar 2017, 147). Coyle also found a positive impact on hotels when examining the London market where increased Airbnb presence actually increased the rate received by hotels (2016, 3).

The sharing economy can compete with hotels by offering a different sort of service with a unique structure. STRs pop up throughout cities where there is demand for lodging. They do not require centralization or maintaining inventory, which helps lower costs (Interian 2016, 130). Rentals offer a more sustainable option that requires fewer resources and helps increase access with more diverse accommodation options and better value. STRs also fulfill the desire for sustainable travel options. Furthermore, they capitalize on collaboration and efficient use of property hosts already own, eliminating the high fixed costs faced by hotels (Interian 2016, 130; Aznar 2017, 150). These fixed costs are what force hotels to adjust their prices rather than their supply. In contrast, the sharing economy is an "asset light business model" which can easily scale to meet demand (Blal 2018, 2). This allows short-term rental hosts to capitalize on unused assets and consumers to find a better value in their accommodation options.

While the presence of short-term rentals can indicate a particularly attractive location and directly compete with hotels in an area, many rentals lie outside of main hotel districts. A study in Texas **found that 70% of Airbnb properties are outside hotel-rich districts, suggesting that rentals not only compete but also compliment hotels, offering more options to travelers (Zervas 2016, 2).** In the case of the California coast, this may include areas with great waterfronts and beaches where there has not been sufficient investment to build many accommodations.

Several studies have evaluated what makes a short-term rental competition for a hotel. The degree of competitiveness depends on several factors, including the supply of rooms, the neighborhood, character of the structure, and type of sleeping accommodation (CBRE 2016; Aznar 2017, 152). Taking into account these factors, these studies clearly found that in areas with a high number of STRs alongside hotels, rentals compete with hotels. Hotels face greater price pressure in areas with large numbers of rentals in comparison to traditional hotels and where there is growth in the number of rentals available (CBRE 1). As hotels face costs that are fixed in the short run, they need to keep occupancy high even with this level of competition (Neeser 2015, 8). The hotel industry is forced to respond to the presence of STR with price—rather than inventory—cuts, and so naturally pushes back against the sharing economy.

The impact of this newfound competition is not felt evenly throughout the hotel industry. In areas where there is sufficient supply of rooms to meet demand, such as parts of Texas, the hotels most impacted by the presence of short-term rentals are low end, economy options. There is clear segmentation in adverse effects on hotels with lower end hotels the most negatively impacted (Midgett 2017, 65). Zervas discovered this impact, noting the impact on revenue was magnified at lower price tiers (Zervas 2016, 4). This was especially the case when looking at those hotels that did not have conference facilities. However, this is less of a concern on the California coast and in the large cities examined in these studies as business travel is not the primary motive for visitation. While studies note the vulnerability of low-end accommodation providers to competition from short term-rentals, they did not find evidence of exits from the market (Blal 2018; Neeser 2015; Zervas 2016). Budget hotels may lose more revenue comparatively when STRs enter the market, but this does not appear to force them to shut down.

On the California coast, the distinct lack of lower cost options and insufficient supply of economy hotels may mitigate the concern of STRs competing with economy hotels. Rather, the presence of STRs on the coast enables more budget conscious visitors to access the coast when they may not have been able to afford it previously. Within the hotel market there is not only differentiation in type of hotel (economy, midscale, upscale, and luxury) but also within consumer preferences. Some consumers may prefer to stay in a hotel and be less open to staying in a STR. Others may like the ambiance of a rental and be early adopters. Considering the aim of increasing access to the coast, it is possible that the competitive effect of the sharing economy would reduce the price of hotels, enabling more options and more access—and also increase the "economic pie"--enabling those who otherwise would not have come to visit the coast (Blal 2018, 2). Further study is needed, however, to understand the effect of the sharing economy in a market quite distinct from major cities and business hubs, such as the California coast.

Reducing Price Hikes at Peak Periods

The most popular time to visit the California coast is the summer when temperatures soar inland and the allure of the ocean grows. The increase in demand also makes summer the most expensive time to visit due to the dramatic increase in the price of coastal accommodations and the lack of availability. Campsites are often booked up months in advance, and for those who prefer not to camp or cannot secure a campsite, hotels are in short supply and far more expensive than at other times during the year. With the high cost of coastal land, it is not profitable to build low cost hotels or similar lodging. High fixed and startup costs not only restrict the construction of new hotels but also influence the price of hotel rooms at peak times. Hotels cannot increase supply, due to high fixed costs, so they increase rates (Zervas 2016, 22). For consumers, this means that an "economy" hotel may be affordable to some visitors only during the off-season (Ainsworth 2016, 15). Additionally, there are enormous differences in prices for similar accommodations between inland and coastal hotels, including accommodations within the same brand. This increased disparity during peak periods limits the ability of even moderate-income Californians to visit the coast.

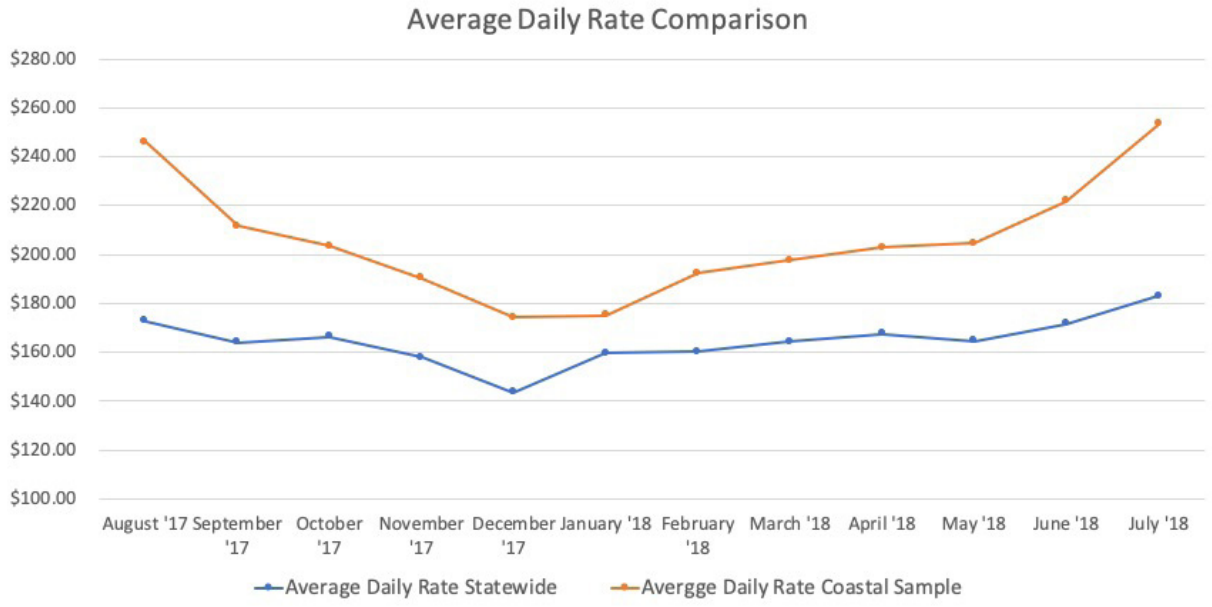


Figure 6: Average Daily Rates (ADRs) for hotels in California 2018 (California Hotel and Lodging Association).

STRs could drive competition and reduce hotels' ability to dramatically increase rates during peak periods, an effect that would be especially desirable along the coast. During the high season, June to September, hotels are often fully occupied and respond to this increased demand by raising prices. The figure above shows the prices for hotels from February to July in 2018. Coastal zone hotels clearly increased their rates more dramatically in the summer—the peak season—than the statewide average. Given that these hotels are already more expensive than those off the coast, this can then severely hinder travel plans for lower income and working-class families.

Unlike hotels, the availability of STRs can offer greater supply of overnight accommodations during peak times without the fixed costs required for owning and maintaining a hotel year-round (Zervas 2016, 2). This is particularly true for "Mom and Pop" STRs where the owners rent out their first and second home as a way to supplement their income. This fluid supply has been shown to mitigate the pricing power and price premiums of hotels during peak demand (CBRE 2017, 13; Zervas 2016, 25). Consumers now have more options due to the greater supply and are able to opt-out from the more expensive hotel rates. In other words, the competition and increased supply provided by STRs can force hotels to charge less in the peak season. This effect, then, can help keep prices down and offer more volume and variety of accommodations, thus increasing access to the coast.



Equity, Affordability, and Displacement on the Coast

Reducing the cost of overnight accommodation has become especially critical as more and more Californians move inland and are therefore forced to stay overnight on the coast when they visit. The California Coastal Act recognized the importance of providing and encouraging lower cost accommodations long before the housing crisis created the acute need seen today. The growth in volume and ease of accessibility of short-term rentals (STRs), rather than precipitating this crisis, is a symptom of the lack of affordability in the coastal region. STRs offer a more affordable lodging solution for those who cannot afford to live near the coast or who have been pushed out of the communities nearest to the coast. The housing crisis is, therefore, not a crisis caused by STRs but rather an affordability crisis stemming from increased income disparities, exorbitant housing costs, and decades-long policies that make it harder to build denser, multi-family residential developments. In California, development does not always respond to demand due to complex zoning laws and a maze of regulatory policies and processes. Furthermore, homeowners in desirable, often high-income communities push back against development and exacerbate the problem. This creates exclusivity and a lack of affordability that pushes low- and middle-income

residents to move inland. This creates the acute need for lower cost accommodations along the coast that STRs can help address. The rising popularity of STRs, therefore, is a democratic solution to the crisis—a way for those who have been priced out of the region to still access the coast.

Acute Lack of Affordability

California faces a particularly acute affordability crisis. **In the coastal region, the lack of affordable housing and development is more severe than in the rest of the state. California's most expensive cities cluster along the coast, concentrating economic opportunity where housing is scarcest. Low-income and working-class families cannot afford to live in the coastal region due in large part to the lack of affordable housing supply. As the rent burden has increased, the lack of affordability has expanded to middle-income households as well (Chapple 2016, 88). While low-income households can apply for vouchers and federal aid, middle-income households are especially squeezed.**

Once, decades ago, these areas possessed a naturally occurring affordable housing stock—housing that the average family could afford without government aid. Today, however, housing prices in the coastal counties have skyrocketed and there is less and less affordable housing every day. Formerly affordable areas have also been converted into upper-middle and upper-class neighborhoods. There is a critical lack of affordability in small California coastal communities, especially in Southern California.

Housing prices have greatly outpaced incomes for many Californians, and this, in turn, has placed an undue financial burden on residents that is unsustainable. Faced with unsustainable costs, low- and middle-income residents cannot remain in coastal communities. Presently, housing costs are so high in the Los Angeles area that "households earning up to 115 percent of area median income, or $69,800 per year, are unable to afford local housing costs," while in San Francisco a "household earning $140,000 per year, or 179 percent of area median income" struggles (McKinsey & Company 2019). These high costs largely stem from a shortage of housing supply, which disproportionately impacts the lower and middle-class residents of impacted areas. The most dramatic housing shortages are near powerhouse cities along the coast—Los Angeles and the greater Bay Area. Families priced out of these regions tend to move inland.

Rising costs overburden these households with a majority in some areas spending over 30% of their income on housing (Freeman & Schuetz 2016, 227; Marcus & Zuk 2017, 4). The situation in California is such that most nurses, teachers, and service industry workers cannot afford to live where they work. Even a decade ago, before the housing crisis reached present day levels, a majority of residents in coastal counties were unable to afford rents as shown in Figure 7 below. As a result, low and moderate-income households cannot afford to live in the coastal areas of California. This reduces coastal access for all but a small segment of the population, forcing inland residents to travel further and pay expensive lodging costs to enjoy the beach.

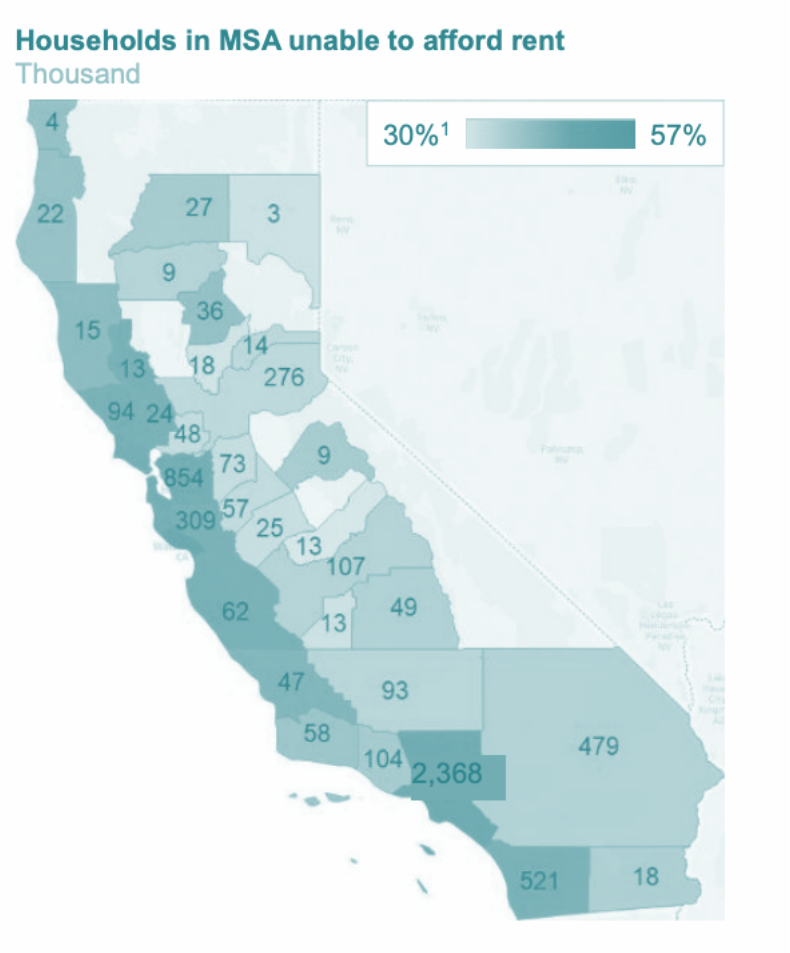


Figure 7: Percent of California residents by metropolitan statistical area unable to afford rent (Quigley 2005).

Lack of Development

The affordability crisis is largely due to high demand and lack of supply in California's powerhouse cities and the regions surrounding them. As demand has risen, there has not been a corresponding spike in development. Experts argue that in order to reduce prices, California needs to substantially increase housing production (Smith-Heimer 2019, 69; McKinsey 2019). It would be expected that in a market with high rents and high demand, there would be a great deal of construction—and that this construction would be focused on higher density housing (typically multifamily housing rather than detached single-family dwellings). However, many California cities have not built enough housing to meet this demand (Chapple 2016, 90). This is especially problematic as the resulting lack of supply drives up the cost of existing units and reduces options for those in need of affordable housing in a market where price increases have long-since outpaced incomes (Freeman & Schuetz 2016, 224). Low- and moderate-income families can no longer afford existing units or find new ones. As Figure 8 shows below, development, particularly in coastal counties, largely occurs only in the luxury sector with profit only for those who supply high-income households (Chapple 2016, 85). Thus, what little construction there is does little to bring down prices, and units that were once affordable are converted into high-income housing.

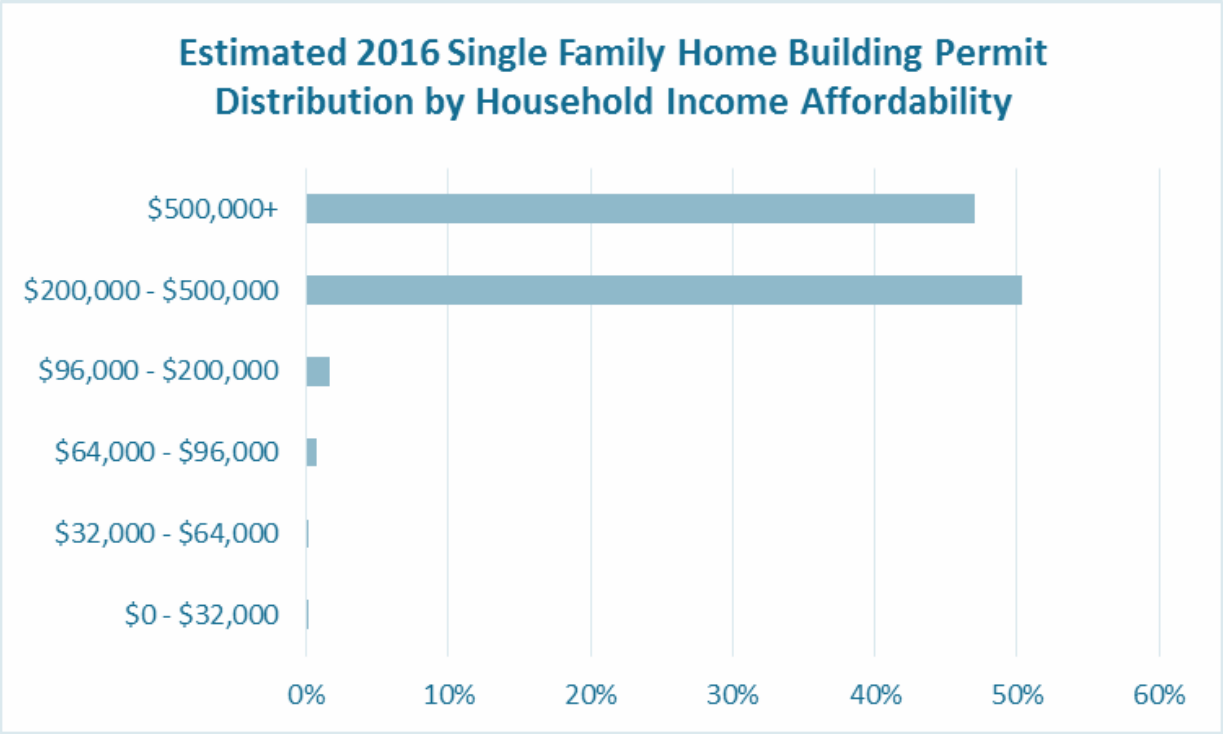


Figure 8: Single family home building permits in California skew towards high-income homes.

While there is certainly demand for new housing, potential projects are curtailed by California's especially chaotic and restrictive system, rooted not only in regulatory but also political, economic, and cultural factors (McKinsey & Company 2019). There are various regulatory measures which reduce development and affordable housing stock. Zoning, which often reserves little land for multifamily housing, imposes serious restrictions. However, Mckinsey (2019) identified many units throughout the state that could be developed on vacant land already zoned for multifamily development. The lack of multifamily zoning presents less of a barrier than the ad hoc process of informal barriers which slows down development and imposes various unpredictable costs (Murray & Schuetz 2019). Delays, committees, and various other measures stall the permitting process and increase costs. This creates chaos in the regulatory environment and imposes unnecessary delay and permit costs on developers.

Rather than encourage new construction, studies have shown that the regulatory environment severely inhibits, and indeed prohibits, the expansion of much needed affordable housing. In the most expensive cities, regulations and informal controls have reduced construction nearly to zero. The most expensive cities—which are also near the coast—have built very few apartments over the past five years and largely issued no permits for their construction (Murray & Schuetz 2019, 10). These cities benefit from booming economies and strong tax bases and would rather have a higher ratio of jobs to housing to avoid negatives like high public expenses and traffic, and they see less tax revenue from large multifamily projects (Metcalf 2018, 70).

The segment of the housing market most lacking development is also most needed: multifamily housing. It would be expected that in areas with expensive land costs, developers would be incentivized to build at higher density—and thus prioritize multi-family rather than single family

housing—but that is not happening in California (Murray & Schuetz 2019, 3). The market for housing has broken down, and the development of apartments does not seem to be correlated with rents. High rents should motivate high levels of development, but in California that is not the case. The lack of development, especially of high-density development, keeps rents high and prioritizes the construction of expensive, single-family housing aimed at the wealthiest homeowners. Multi-family units increase density and lower costs in the face of high demand, yet these projects face strong opposition. As a result, affordable housing tends to be built where land is cheap and political opposition is weak. These areas—often outside economic opportunity zones—limit the ability of low-income families to move to opportunity and lead to the construction of housing in outer lying suburbs (Freeman & Schuetz 2016, 228; Chapple 2016, 90).

Opposition to multifamily housing stems not only from the lack of profitability but also from the difference between potential renters and existing homeowners. In California, particularly in the coastal zone, owners tend to be older, wealthier, and whiter than potential renters (Reineman 2017; Murray & Schuetz 2019; Bliss 2019). When considering designated or subsidized affordable housing in addition to market-rate housing, this difference is all the more apparent. Opposition to multi-family (and especially designated affordable) housing in expensive cities and the coastal zone preserves the exclusivity of access to the wealth of resources there, including easy access to the coast (Owens 2019, 499 518). These actions undermine the aims of access for all outlined in the California Coastal Act and help create the acute need for affordable lodging in these elite areas.

Restrictive Housing Policies

Many homeowners in more affluent parts of the coastal region oppose additional housing development, specifically through restrictive zoning rules that limit multi-family and other affordable housing options. Similarly, restrictive policies target short-term rentals and keep the price of coastal accommodations high. Reineman's (2017) work demonstrated that the immediate coastal zone is already wealthy and white and existing economic pressures have driven coastal counties toward further homogeneity. By reducing the affordable housing stock these areas are kept expensive and exclusive as low- and middle-income households are forced out.

The Costs of Restrictive Regulations

Restrictive regulations result in less development, especially affordable and multi-family development. This drives up home prices and forces those of middle-and low-incomes to move. As in many other states, regulation and zoning are left to local municipalities in California and even sometimes directly decided by the voters via referendum (Metcalf 2018, 67). Because homeowners often make up the voting base, governments frequently adopt laws that reflect their preferences over those of renters and other less politically connected groups (Murray & Schuetz 2016, 13; Metcalf 2018, 70). Advocates of up-zoning and increasing density have not managed to clearly address how more housing in an expensive area helps everyone.

The lack of consistency in local zoning regulations impose costs on developers who must negotiate a confusing labyrinth of rules and restrictions. The costs associated with this process are passed on to renters or buyers and increase the already high housing prices. Quigley (2005, 327)

examined the responsiveness of housing stock to demand and the construction of new housing and found that both are lower in highly regulated cities. This finding was especially pronounced in the rental market. This means that in one of the fastest growing areas in the country—and an economic powerhouse that attracts workers seeking opportunities—there are fundamental barriers to development which keeps costs high. Furthermore, the promise of property taxes encourages local governments to prioritize single-family over multi-family development (Freeman & Schuetz 2016, 218). Additionally, cities in California glean a share of sales tax. This creates another incentive in favor of retail and upper-class housing over more dense, affordable options (Quigley year, 323).

Thus, affordable housing tends to be constructed in less-desirable, outer lying suburbs, further from economic opportunity (Freeman & Schuetz 2016, 228; Chapple 2016, 90). Such is the case in the coastal region where the lack of supply in comparison to demand has led the cost of housing to soar. The regulatory chaos, incentives against affordable housing, high level of income inequality, and local opposition to eliminating restrictive zoning rules are the foundational pillars of California's affordability crisis. Combined, these barriers precipitate a crisis in California far greater than what STRs might impact.

Displacement Inland Reduces Coastal Access

The lack of housing options for low- and middle-income families in the coastal region of California has forced many of these families to move inland. When residents are displaced to the more affordable areas inland, it results in inequitable access to not only the benefits of living near a strong city economy but also inequitable access to the California coast. **Unequal access to housing exacerbates the disparities in coastal access already discussed in this paper.** Moving inland also means that for Californians of moderate incomes to visit the coast, they will likely need affordable accommodations. With the loss of economy options and overall lack of supply of traditional lower cost coastal accommodation, an acute need arises for alternative forms of lodging to meet this growing need.

Table 5: Median Income and Home Price Comparison, Coastal and Inland (U.S. Census Bureau and Zillow Data)

Region	Median Income	Median Listing Price	Price as a Percent of Income
Coastal Sample	$83,995.00	$1,059,306.25	1261%
Inland Sample	$58,082.83	$338,021.86	582%

As previously stated, many households are forced to move inland because their incomes have not kept up with the increase in housing prices. As Table 5 shows, the median listing price of a home in the coastal region is over 12.5 times the median income for that region. Inland, the median listing price is under 6 times the median income. The relative affordability of inland communities attracts families priced out of the markets in the coastal zone.

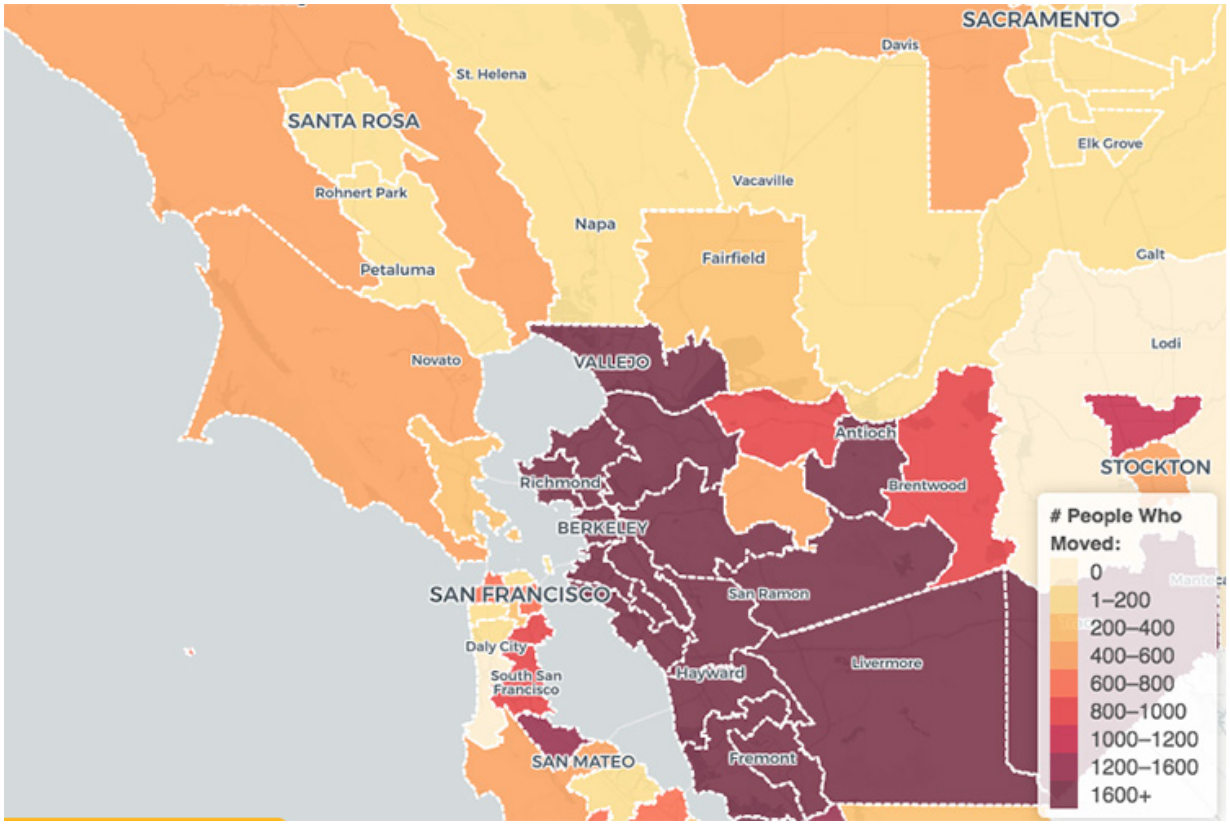


Figure 9: Displacement from the Bay Area (Berkeley News 2018).

Given that the modern economy is primarily service-driven, pushing service workers out of middle-class housing markets is concerning. This is especially true in the coastal region where the disparity in incomes is so high. **These workers—both low- and middle-income—simply cannot earn enough to remain in the strained housing market near the coast.** Forcing these households inland increases their travel costs, especially if they choose to stay overnight on the coast. Short-term rentals can help alleviate some of this burden both for visitors and those who wish to fight to remain living in the coastal region amid skyrocketing prices. **Some families may find themselves able to alleviate some of these pressures through STRs by renting their homes part-time to visitors.**

In this way, some residents may be able to afford to remain in their neighborhoods despite increasing costs. The sharing economy may offer less-wealthy residents of coastal communities a way to continue living there by shifting some of the economic burdens of ownership (Jefferson-Jones 2015, 558). In markets such as the coast, where the costs of living are increasingly high, the supplemental income from short-term rentals can offset expenses and allow residents to remain (Horn 2017, 14; McNamara 2015, 169). This could also help owners afford maintenance or

renovations, which would mean that short term-rentals may increase property value in the long run (Jefferson-Jones 2015, 573). These expensive real estate markets are particularly suited to short term rentals as most areas with high hotel premiums also have high land costs (CBRE 2017, 11). Being able to rent out their home might help some owners retain residence in the coastal zone or to afford a vacation home when they otherwise could not. This increases their access to the coast and offers a method of access for renters.

This model of the sharing economy focuses on the small homeowners who rent out extra space or a sporadically used vacation home. These "Mom and Pop" rentals sometimes make up the majority of operators. Airbnb notes that 95% of all hosts have one listing (CBRE 2017, 9). While some short-term rental operators may have excess housing, which is marketable—such as a family vacation rental—many are simply renting out extra rooms and spare space in their home (Lee 2016, 243). This extra revenue has many uses, especially in an expensive area like coastal California. As mentioned, the income enables hosts to live where they might otherwise not be able to afford, but it may also help cover groceries or pay for college (McNamara 2015, 155; Wachsmuth & Weissler 2015, 1148).

The costs of living on the coast are high and pose a distinct barrier to access. **Allowing, and indeed promoting, STRs on the coast would likely simultaneously result in some residents being able to remain when they would otherwise be forced out by the high cost of living or housing scarcity and in increased options and affordability for visitors. The benefit of STRs on the coast comes from increased access for those that cannot afford to live there—the majority of Californians—so that the coastal zone becomes not an exclusive enclave of the wealthy but a shared resource available to and accessible for all.**

The Housing Crisis and Coastal Affordability

The situation in many coastal communities is one of profound neighborhood changes—a pushing out of low-and middle-income residents as more wealth concentrates in the region. This change in neighborhoods appears to be a form of gentrification: the influx of middle- and upper-class residents which revitalize a neighborhood at the expense of its lower-income residents. However, displacement from coastal cities is not necessarily gentrification in the classical sense but rather a function of the rent burden placed on low- and moderate-income households (Chapple 2016, 86). As incomes in an area grow and market-rate housing is built, the value of those formerly affordable homes rises such that residents are pushed out or cannot afford to move in. This severe mismatch between housing costs and incomes displaces low-income communities, especially communities of color (Marcus & Zuk 2017, 3). The demand for housing in the coastal region displaces less wealthy residents who cannot keep paying rising rents nor find similar accommodations. As discussed, this has pushed many residents inland--away from the striving economies in coastal cities and away from easy coastal access. This situation is not created by short-term rentals but rather by the high demand and lack of sufficient affordable development. Many critics of STRs claim that the presence of rentals can lead to gentrification; however, in the context of the coastal region of California, this argument is profoundly flawed.

The argument that short-term rentals induce gentrification applies less in the coastal region of California because most communities have already gentrified. For rentals to promote gentrification, the presence of STRs must (a) offer far more revenue than the traditional housing market and (b) induce a high degree of displacement and neighborhood change that would not otherwise occur. In the coastal areas of California, this displacement occurs from the broken housing market with or without short-term rentals. In fact, Chapple (2016, 85) argues that the potential revenue gains in these areas has "long since been recaptured," and that gentrification has already taken place. Indeed, in looking at cities like San Francisco, price pressures are so extreme that the entire city is expensive (Freeman & Schuetz 2016, 219). Nearby in San Mateo County, one study (Marcus & Zuk 2017) found that 33% of households had left San Mateo County, largely for the Central Valley or further out in East Bay. In their survey, of the 20% that remained in their same neighborhood, many moved into crowded conditions (Marcus & Zuk 2017, 6). In order to find housing comparable or superior to what they had been forced to leave, residents moved to areas with fewer services and away from economic opportunity. In these areas, the economic growth, income disparity, and housing shortage engineered a situation where displacement and gentrification rapidly ensued. On the coast, there are simply fewer affordable areas left.

In these areas, it is hard to argue that STRs will displace residents of lesser means when the housing market continues to displace most of them. Coastal communities, already expensive compared to those inland, lack the affordable housing that critics argue is threatened by STRs. In a classic case of gentrification, STRs would bring in an influx of investment which would transform a disadvantaged community. In California, few of these communities remain in the coastal region as formerly blighted areas have long since been transformed by the housing crisis. Rather than protecting affordability and the character of low-income neighborhoods, what those who wish to ban STRs perceive as "threatened" is the character of already expensive, exclusive coastal areas. Without affordable lodging options, former residents of coastal communities face an undue and unjust burden in visiting the coast. Much like the arguments against affordable housing, residents seek to protect their exclusive access to the coast and see increased access for a wider swath of Californians as a threat.



Resilience

> "Resilience is the ability of an urban asset, location and/or system to provide predictable performance … under a wide range of circumstances."
>
> **Jeb Brugman, Financing the Resilient City (2009), p. 217** [9]

The housing crisis is only one demand on local governments and the State of California's limited resources. Climate change will adversely impact communities across the state with coastal communities under threat from sea level rise and possibly other threats, such as mudslides and fires. Local communities across California are now engaged in the process of planning for sea level rise and other hazards exacerbated by climate change. Although there is currently a strong debate about the nature of these adaptation strategies, often couched in terms of green (emphasizing coastal restoration or retreat) versus gray (armoring), all of these adaptation strategies have one thing in common: they are all extremely expensive. For example, a recent study published in the Annals of the New York Academy of Science (Aerts et al. 2018) estimated that Los Angeles County alone will face climate change related costs of between $4.3 and $6.4 billion by 2100. A study in Oceanside, CA estimated coastal adaptation costs of over $250 million by 2040. Costs for other coastal cities will be similarly high.

9 Brugman, Jeb, Financing the Resilient City, Environment and Urbanization, V. 24(1): 215-232, p. 217.

These coastal communities will have to come up with the money for adaptation. Many of the large capital costs of these projects will likely be financed by various state and local bond issuances (Resources Legacy Fund, 2018). However, like any loan, bonds simply shift costs forward; cities and other government and private entities will ultimately need to raise large sums of money in order to pay for resilience. In many cases, cities will either be expected to cost share or will be expected to take over certain aspects of the project (e.g., maintenance). This will all be on top of the services that cities currently provide and which are already underfunded in many areas. Therefore, cities will need to find new revenue sources, and increasing taxes is not only unpopular but extremely difficult to legislate.

Although cities can and should expect help from the State of California and U.S. government agencies, these sources of funds have been in decline as revealed when examining the percentage of the average California's city government total budget. In 1974–75, Federal and State Grants accounted for 21% of a city's budget; today that figure is less than 10% on average[10] (Coleman 2016). Much of this money is also tied to particular programs and projects, so that city governments have little say or discretion over how the money is spent.

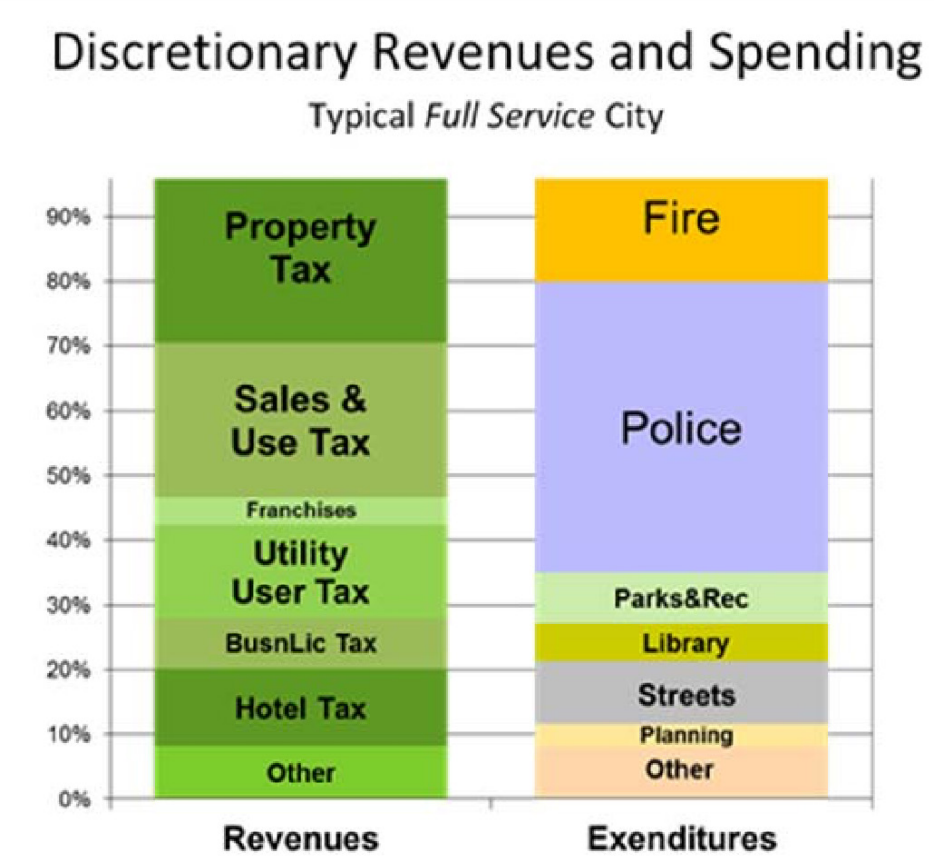


Figure 10: Revenue (taxes and fees) vs. spending for average California city.

10 Coleman, Michael, A Primer on California City Revenues, Part Two: Major City Revenues, Western City, December 1, 2016 http://www.westerncity.com/article/primer-california-city-revenues-part-two-major-city-revenues

Sales taxes, another significant source of local revenue, have also failed to keep up with overall economic activity in California. In California, as in many states, sales taxes only apply to goods and not services. In the last 30 years, consumers' spending patterns have shifted toward more services and fewer goods, resulting in slower rates of growth for sales taxes. Moreover, since wealthier households tend to spend a greater proportion of their income on services than poorer households, the failure to tax services makes the sales tax more regressive (California Budget Center 2011). With growing populations already straining cities revenue and increasing demand on public services, the relative decline in sales tax revenues further reduces cities' discretionary budgets. The lack of funds curtails the potential cash flow for necessary resiliency projects. The transient occupancy taxes generated by STRs can help make up for the slower growth in sales tax revenues.

Where Do California Cities Get Their Revenues?

While city governments obtain some of their budget from the state and federal governments, the primary source of revenue is their tax base. Figure 10 in the previous section presents data on revenue versus spending for the average California city (which can vary from city to city). The majority of most city budgets are dedicated to public safety, such as fire and police departments. These services are necessary and only increase in need as California populations grow and natural disasters plague the state. The majority of the remaining budget goes to other traditional city services, such as parks and recreation, planning, street services, libraries, etc.

On the government revenue side, property and sales taxes still make up over half of a typical city's general fund revenues. However, as noted above, sales taxes have failed to keep up with economic growth since services are not taxed and have become an increasing share of California consumer's spending. Sales taxes are regressive; even with food and rent excluded from sales taxes, lower income households pay a higher percentage of their income than wealthier households on sales taxes.

Outside of sales taxes, municipalities in California rely on a combination of other tax sources. One such additional revenue stream, Utility User Taxes (UUTs), have become more important as a source of general funds for cities, representing, on average, 15% of general fund revenues for cities that have a UUT. These are taxes on a consumers' usage of utility services, such as electricity, sewage, water, sanitation, and cable television. Local governments assess UUTs based on the consumer's usage of the service.

Business licenses and fees (e.g., recreational fees for a swimming pool) account for just under 10% of a typical California city budget and are generally used to partially offset corresponding city services. Transient Occupancy Taxes (TOT), also known as hotel taxes, represent just over 10% of taxes for the average city. These taxes are primarily paid by visitors to the area, rather than the residents, making them more popular. While TOT represents a small part of the average city's revenue, coastal cities with significant visitation can have much higher TOT revenues. These taxes can be a crucial revenue source useful for offsetting the cost of tourist services in addition to the general public services.

Increasing City Revenues to Pay for Resilience

Increasing local resilience to climate change will require cities to raise more revenues. Raising revenues from each of these sources poses different challenges. The primary source of municipal government revenues is through the various tax sources. Measures in California law restrict the ability of jurisdictions to alter their taxes even when the needs for revenue are critical. Adapting to climate change and promoting climate change resistance poses one such critical circumstance, especially for those communities most adversely impacted by rising sea levels. Without a new revenue source, or expanding an existing one, these governments will likely lack the revenue to either directly pay for resilience or to pay back future bond issuances. The discussion below highlights the major sources of revenue for California's cities, each with their own limitations, and also discusses the prospect of Transient Occupancy Taxes as a revenue stream.

Property Taxes

In California, unlike many other states, property taxes, though collected at the county level, are distributed via the State Board of Equalization back to local governments. While property taxes constitute a significant portion of city and county revenues, the ability to increase property taxes is limited. In 1996, California voters approved Proposition 218, "The Right to Vote on Taxes Act," which "substantially expanded restrictions on local government revenue-raising including taxes, assessments and property related fees" (League of California Cities 2019). Furthermore, these property tax increases must go to support "the acquisition or improvement of real property" (California City Finance, 2019). This means that the uses of collected taxes are limited to the state's purchase of property or improvements to structures on government property. The definition of real property includes various trees and mines but does not include waterways or the coast, which would assist in its use for necessary resiliency work on the coastline. Prop 213 requires a two-thirds majority for all property tax supported bond measures, except for school districts, which have a lower threshold of 55%. The two-thirds supermajority requirement put a damper on bond measures, and less than half of bond measures requiring a two-thirds vote have passed since 2001, whereas 84% of measures requiring a 55% measure (for schools) have passed. Since the 55% measures include schools, their high success rate may also be related to continued local support for schools. Overall, the limitations on property taxes have reduced the state's ability to collect them and thereby reduced the budget.

In addition to property tax levies to support school or other bond issues, California law also supports a number of special property tax districts, including independent financing districts (IFDs) which can issue additional fees (e.g., Mello Roos) or property tax levies generally on new or substantially improved property. For protection of existing property, the state has created geological hazard abatement districts (GHAD)s. A GHAD comprises an independent agency focused on the abatement and prevention of geological hazards in the area for which it was created. They have defined boundaries of that area and obtain their funding within it. A number of GHADs have been created across the state to help homeowners and other property owners protect their property against geologic hazards, such as earthquakes or coastal erosion (e.g., in Malibu). One potential disadvantage of GHADs on the coast, however, is their focus on protection of private property over other uses. For example, a GHAD may favor coastal armoring over other adaptation scenarios since armoring will protect coastal property. However, this armoring may also diminish coastal recreation if already eroding beaches erode further.

Sales Taxes

As discussed, another primary revenue source for cities are sales taxes. Sales tax revenues largely do not meet the needs of California cities, and measures to expand them have a low success rate. Under Bradley Burns Uniform Local Sales and Use Tax legislation, California allocated 1% of sales subject to sales taxes to incorporated cities or counties with another 0.25% allocated for local transportation, which are typically allocated to counties (California State Auditor 2017, 8). California law allows local jurisdictions to add on sales taxes at the city or county level to support other services. Since 2001, many measures have been passed to add-on sales taxes for local transportation; many of these were extensions of already existing sales taxes that needed to be ratified. However, if one examines sales tax increases not allocated to transportation, the success rate for new sales tax measures in California since 2001 has been less than 50%. The most successful other tax measures have involved libraries, street/roads, and public safety, but the majority of these ballot measures have failed (Ca City Finance 2019. 11-14). The lower likelihood of passing a sales tax increase diminishes the ability of municipalities to use sales tax as a source for their much-needed resiliency budgets.

As noted above, sales taxes have two other problems. First, they are regressive—lower income houses pay a higher percentage of their income in sales taxes since they spend more of their income on items subject to sales taxes. This creates an equity problem as it is unjust for those with fewer means to pay more for public services. Second, sales tax revenues in California have failed to keep up with economic growth since services (e.g., haircuts) are not subject to sales taxes and services have become a larger part of California consumers' budgets.

Utility Users Taxes

Taxes based on a consumer's use of a service, Utility Users Taxes (UUTs), have increasingly yielded important revenue streams. However, utilities will be especially stressed by climate change, and taxes or utility rates will have to increase substantially to pay to make key infrastructure more resilient. Climate change will increase the need for certain services, such as electricity (for uses such as air conditioning), and likely damage some existing systems, necessitating repair. UUTs are typically levied by cities on utilities such as electricity, water and telephone use. While voters have generally approved continuing existing UUTs, most ballot initiatives attempting to increase existing UUTs have failed in California since 2001 (CA City Fin 2019).

Additionally, local phone calls were traditionally a significant source of UUT revenue, but the advent of new technologies in telecommunication has made charges for local telephone calls a relic of the past. To respond to these changes, many cities have revised/modernized UUTs, however the majority of these ballot measures resulted in reductions in UUT fees. Climate change will have a significant impact on many utilities as cities will be required to modernize, harden, and relocate many power, gas, electric, water, and telecommunications lines. Voters facing the prospect of power outages or loss of other valuable utilities may be willing to approve UUTs targeted at improving utility infrastructure. Consequently, it's unlikely that UUT revenues can be used to fund resilience projects, other than supporting and moving existing infrastructure, requiring funding from other sources for other resilience tasks.

Business Licenses and Fees

These fees are generally collected for services rendered by a city or county and may include licenses for operating businesses within the community, recreational fees for community services such as a local swimming pool, and parking fees. These licenses and fees are generally subject to a vote by a city council or county Board of Supervisors. Parking fees may be used to support resilience projects in cases where parking lots/structures are threatened by coastal erosion.

Transient Occupancy Taxes

In looking for potential revenue sources to fund resiliency projects, cities (especially those on the coast) could look toward Transient Occupancy Taxes (TOTs). Sometimes referred to as hotel taxes, TOTs are levied on hotels and short-term rentals of less than 30 days. Under California law, cities and counties (for hotels and rentals in unincorporated areas) may levy TOTs with a two-thirds vote. According to the California State Controller's Office[11], the vast majority (over 90%) of cities and counties have some sort of TOT. The most common rate is 10%, but quite a few popular destinations in California have significantly higher rates that allow them to capitalize on the demand for tourism in the area. For example, Anaheim has the highest rate (15%), while Los Angeles, San Francisco, and a few other high-demand cities charge 14%. Although TOTs require a two-thirds vote, **these taxes are often popular since non-residents generally pay for them and they are often seen as a mechanism for reimbursing the costs of hosting visitors** (e.g., public safety, beach recreation). Since 2001, the majority of TOT measures have passed despite the requirement of a two-thirds vote.

One potential issue with TOTs is non-compliance. STRs offer a potentially lucrative source of TOTs if they are brought into compliance while still encouraging the existence of the rental. As discussed in the next section, TOTs from STRs have increased substantially as STRs have become increasingly popular and as more have been brought into compliance.

Transient Occupancy Taxes from Short-Term Rentals

Easier access to STRs through new platforms has not only increased access to popular destinations, such as the California coast, but also the potential to greatly increase revenues in these areas. In the City of Los Angeles, for example, revenue from short-term rental transient occupancy taxes go to the city's general fund and help pay for community services. However, in order to capitalize on this possibility, cities need to find a way to regulate STRs without imposing high costs on hosts. These costs, such as the murky regulatory environment or high permit fees mentioned above, can impose barriers to entry. This reduces the number of rentals the cities can collect taxes from, discourages small "Mom and Pop" hosts who cannot pay the high fees, and may force some STRs to continue without permits.

Table 6 below summarizes the revenue sources available to local governments in California, along with the typical use for any tax /fee increases, the political hurdles necessary for an increase, and the potential advantages and disadvantages of each tax/fee.

11 California Cities Transient Occupancy Tax Revenue, Tax Rate, and Effective Date, Fiscal Year 2016-2017 https://sco.ca.gov/Files-ARD-Local/LocRep/2016-17%20Cities%20TOT.pdf

Table 6: Examination of Revenue Sources for California Cities

Local Fund Source	Often Used For:	Necessary Approval	Possible Advantages	Possible Shortcomings
Property Tax Levy	School Districts	Requires Ballot Measure: 2/3 for general levy; 55% for schools	Involves entire community	Raises Housing Costs
Special Assessment District (e.g., GHAD, IFD)	Protection against Geological Hazards	Requires Formation of District and Approval of Special Tax	Coastal Property Owners may have higher Ability to Pay	GHADs emphasize property protection over other uses
Sales Tax	Transportation	Revenues have lagged economic growth; Requires 2/3 Ballot Measure	Spread evenly across consumers	Lower income groups pay higher percentage (Regressive tax)
Developer Fee	Low Income Housing. Environmental Mitigation	Requires New Development	Often used to support Affordable Housing	Academic Studies indicate these fees raise the cost of housing in CA
Utility/User Fees	General Fund, Utility Improvement	Requires 2/3 Ballot Measure	Can be used to support utility resilience	Most increase measures have failed
Business Licenses and Fees	Providing Services, General Revenue	Requires City Counsel (or similar) Vote	Helps offset cost of public services	May be regressive. Limited ability to raise revenue
Transient Occupancy Tax	Parks and Recreation, General Fund Revenue	Requires 2/3 Ballot Measure or Increasing Hotels/ STRs	Increased Coastal Access correlated with higher TOTs	Requires new hotel construction or lowering STR restrictions

Financing Resilience for Local Communities

To return to the quote at the beginning of this section, resilience can be defined as "the ability of an urban asset, location and/ or system to provide predictable performance … under a wide range of circumstances" (Brugman, 2009). Facing the threat of climate change, California cities need to increase their ability to fund and execute resilience. In all likelihood, climate change adaptation will require local governments to increase taxes and fees in a wide variety of ways, including property and sales tax increases as well as increases in utility rates or user fees to pay for infrastructure improvements.

In California, cities are limited in terms of their ability to raise revenues between the taxes and fees discussed above. As indicated in Table 6 above, each type of tax/fee has advantages and disadvantages. TOTs offer one of the most feasible methods of increasing taxes, particularly for

services oriented for visitors, such as maintenance of beaches and other public parks. Additionally, the potential to increase TOT revenue exists in the prospect of bringing existing STRs into compliance and promoting better regulations. For communities on the California coast, TOTs can provide needed revenues to offset the cost of serving visitors (e.g., public safety) as well as help preserve beaches and other sensitive coastal habitats. In addition to increasing TOT rates, many local communities have the opportunity to increase TOT revenue by allowing for more STRs or by bringing existing STRs into compliance (by paying TOTs). This would allow coastal communities to improve their resilience without burdening their populations and simultaneously increase coastal access for visitors by helping legitimize STRs as a source for affordable accommodations along the coast.

Table 7: Potential for City Revenue Sources to Finance Climate Resilience

Local Fund Source	Potential for Climate Resilience Finance
Property Tax Levy	Can help support property protecting infrastructure, especially for schools.
Special Assessment District (e.g., GHAD, IFD)	Can help support protection of private property, in particular shoreline protection.
Sales Tax	Can help support transportation infrastructure.
Developer Fee	Can make new developments more resilient.
Utility/User Fees	Can help support utility infrastructure resilience.
Business Licenses and Fees	Can help support local programs. Parking fees can help offset threats to parking.
Transient Occupancy Tax	Can help support beaches, parks, and visitor supporting services.



Case Studies—The Potential for Affordability on the Coast

California's coast is available to all, which makes California's coastal communities some of the most in-demand real estate in the country. California's coastal cities tout beachfronts, plentiful coastal access, and offer a calm respite from the larger cities—or at least an escape from the Inland Empire's heat. Unfortunately, many of California's coastal communities have become unaffordable. Not everyone in California can afford to live in, or even visit, them.

This section examines a few case studies of different coastal communities in California. The first case study examines North San Diego County, specifically the Cities of Del Mar, Solana Beach, Encinitas, Carlsbad, and Oceanside. This region showcases how affluent communities not only discourage construction of affordable housing and lodging but also have the most restrictive regulations on short-term rentals. Data from a summer 2018 sample of STRs demonstrates that

wealthier areas—in particular Del Mar—impose more restrictions and a higher degree of exclusivity in lodging, keeping costs high and inaccessible to most Californians.

Unlike North San Diego County, the second case study examines the different regulatory environments for STRs in Pismo Beach and the City of Santa Barbara. While STRs are legal in Pismo Beach, they are expensive to operate due to the burden of high permitting fees. Additionally, Santa Barbara's near ban on STRs demonstrates how restrictive regulations increase the cost of accommodations and forces budget conscious visitors away from the coast.

In all of the sample cities, coastal access is limited due to the cost of housing, cost of overnight accommodations, and acute lack of supply for lodging in the high season. However, there are differences in the way each of these communities have approached the issue of providing coastal access via increased affordability and lodging supply. These differences contribute to dramatic disparities in affordability, which could be addressed through policy changes.

North San Diego County

The communities in North San Diego County line a popular stretch of the California coast and offer access to prime beaches, such as Del Mar City Beach, Carlsbad State Beach, Torrey Pines, Moonlight, Fletcher Cove, Oceanside, and many others. These seaside towns offer smaller communities and a well-maintained coastline often amenable to families. However, due to the lack of affordable real estate and accommodation, many Californians cannot afford to live in or visit these towns.

Despite many similarities and close proximity, the five sample cities differ greatly in their degree of affordable accessibility as well as in demographic makeup. As Reineman's (2017) work predicts, these communities are predominantly comprised of individuals who are wealthy, white, and typically older than the median age for California. The population of Del Mar is the oldest, wealthiest, and least diverse of the focus cities. On the other hand, Oceanside is much less expensive and more diverse.

Table 8: Demographics in North San Diego County Communities, SANDAG data 2018

City	Median Household Income	Median Age	Single Family Homes
Del Mar	$ 129,880.00	48.6	60%
Solana Beach	$ 111,476.00	44.2	47%
Encinitas	$ 106,960.00	41.9	63%
Carlsbad	$ 107,605.00	41	55%
Oceanside	$ 67,754.00	36.8	53%

San Diego Association of Governments (SANDAG) statistics indicate that Del Mar is the least diverse with over 85% white residents, the most affluent, and also the oldest by median age. Encinitas and Solana Beach are also predominantly white and older. All three coastal communities are significantly less diverse than the rest of California overall. Homogeneity along racial and socioeconomic lines is a trend along the coast; the Californians with the easiest access to the coast by virtue of their residence tend to be white, affluent, and older (Reineman 2017). This is especially evident in Del Mar.

While North Coastal San Diego adheres to this trend, and the lack of access overall, Oceanside is an interesting outlier. The city is much more diverse than the others in the study. Additionally, housing is more affordable. Oceanside demonstrates that more affordability is possible, especially in terms of affordable housing and accommodation, if regulations are in place to promote supply and affordability.

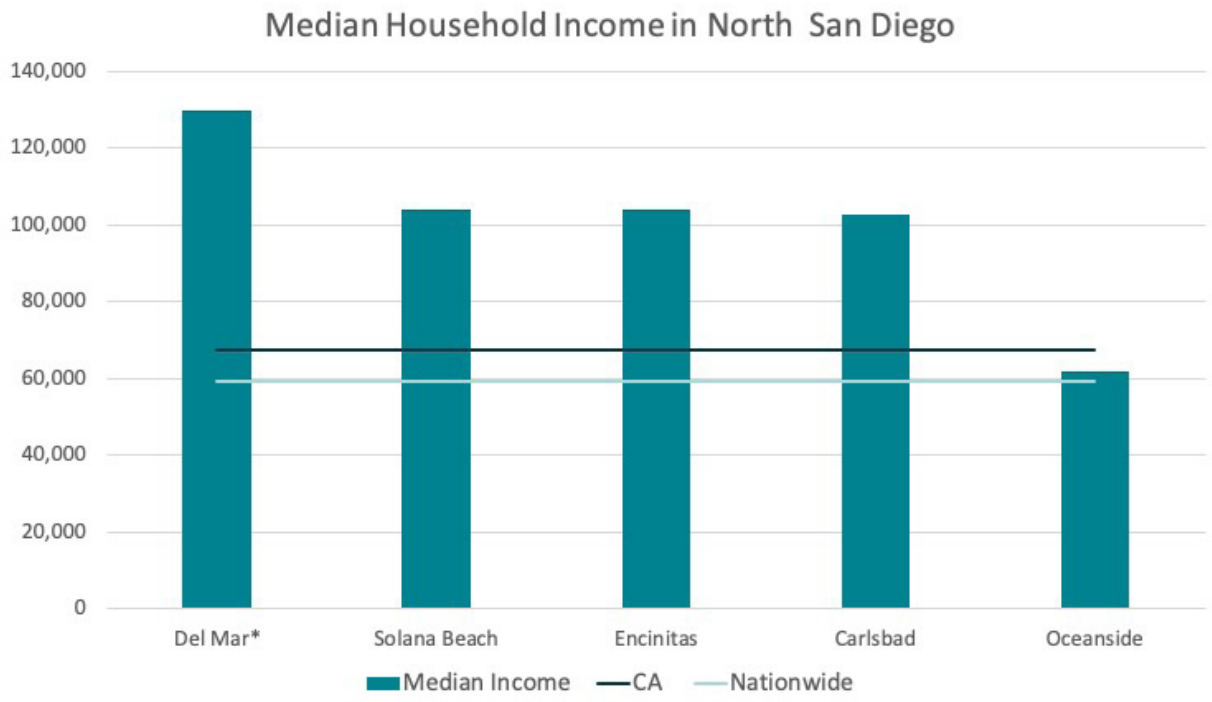


Figure 11: Median household income in North Coastal San Diego is higher than the statewide and national average.

Affordability on the North Coast

Housing affordability is especially important because coastal communities are not only more affluent on average than the rest of the state but also more expensive to live in. The housing shortage—and in particular the lack of affordable housing—is more severe in coastal cities. Simply put, a low-income household cannot afford to live in most of these communities due to a severe lack of more affordable options and multi-family housing. Typically, this lack of affordability creates an enclave of wealthier residents on the coasts and reduces access for lower-income households as they are pushed further inland. While the vacancy rates, according to a 2018 SANDAG assessment, are relatively high, the vacant homes are not affordable for most Californians. Furthermore, many homes in Coastal North San Diego County are second homes which sit unused for much of the year.

In most of the small coastal communities, median home prices and rent are much more expensive than the average for San Diego County. The notable exception is Oceanside. On the other extreme is Del Mar with a median home price nearly 3x the rest of the county. The high cost of living in these communities creates an especially acute need for affordable housing. The lack of affordable housing has been addressed in the San Diego Area Governments (SANDAG) housing needs assessment. This study helps planners determine how much housing needs to be constructed and to target that housing for specific income brackets: Very Low, Low, Moderate, and Above Moderate. The 2017 assessment found that the coastal communities in this case study alone need 5,521 homes for Very Low- and Low-Income households. The diversity in affordability, demographics, and housing needs between these coastal communities allows for comparison. Del Mar, for example, would be expected to have less ease of coastal access than Oceanside and more restrictive attitudes in local politics.

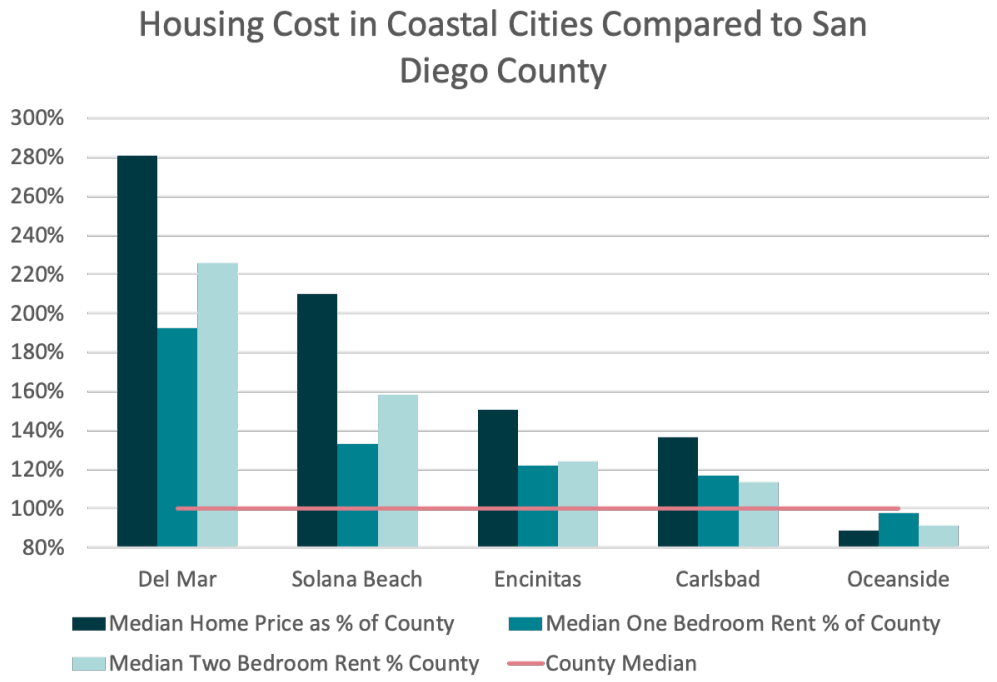


Figure 12: Housing costs in most coastal communities are far higher than the county as shown by percentages.

Affordable Accommodations

Finding affordable overnight accommodations in North San Diego coastal communities is nearly impossible during the summer high season. The meager number of affordable rooms does not begin to meet the needs of the surrounding population. The Coastal Conservancy defines Lower Cost Coastal Accommodations (LCCAs) as those with an average daily rate (ADR) 75% or less of the state average. For July 2019 (high season) this is estimated at $140.70 per night. A prospective visitor might struggle to find such options in the coastal zone. Some cities, such as Del Mar, appear to have no affordable options at all. Del Mar, despite its popularity as a destination, offers only six hotels—with only 355 rooms between them—a scarcity which helps drive up prices (Schwing 2018, 2). Furthermore, hotels with rates less than $140 in July typically offer that rate for a single full bed—hardly enough room for a family.

Although camping can provide a more affordable alternative for these families, there are limited options. In many of the coastal communities there are no tent camping sites, only RV parks. This imposes high equipment costs if visitors do not own an RV. In Carlsbad and Encinitas, there are State Beaches which offer tent camping, but these few sites are booked months in advance. This might be particularly problematic for a working-class family with less certainty of the stability of their financial situation and less predictability in time off. Furthermore, camping is not an option for all families as it has high equipment costs (Christensen & King 2017; Coleman 2016). Due to the barriers to entry and the limited availability, many families would not be able to turn to camping in the North San Diego Coastal area as an affordable accommodation option.

As discussed, the coast has lost many of its affordable options since 1989. The coastal region's tourism is especially seasonal, proving a challenge to the hotel business. Zervas (2016) discussed this issue, explaining that hotels face high fixed costs. This makes it especially difficult to adjust their supply of rooms to match demand—to scale up in the summer high season and scale down in the cooler months. As the cost of land on the coast has increased, economy range hotels have increasingly closed down and been replaced by upscale hotels and condominiums (Ainsworth 2017). In San Diego County, no discounted rooms have been included in new developments despite the mandate to provide affordability where feasible (Weisberg, 2015). Most recent hotel projects have been for the construction of upscale and luxury resorts (Access Denied, 2019). These new developments not only take existing LCAAs away from visitors but they also increase the associated costs of a visit by bringing in more high-end clientele and thus more upscale restaurants and shops. The areas with the most expensive hotels and fewest LCCAs typically impose the most restrictive policies on STRs, keeping prices high and lower-income visitors out.

Short-Term Rentals Provide Affordable Access

In order to evaluate the affordability of short-term rentals in North San Diego County, this paper examines data on the rental price of STRs in Del Mar, Solana Beach, Encinitas, Carlsbad, and Oceanside from summer 2018. For example, the average listing in Oceanside is $150 per night, whereas in Del Mar the average is $265. The data confirms the expectation that the more exclusive areas have less affordability. Furthermore, mapping the rental listings and their distance from the coastal zone shows that prices increase with proximity to the coast. Therefore, affordability decreases.

Table 9: Average Price for a Short-Term Rental in Select North San Diego County Cities for Two-Person Occupancy. Prices Determined by Capacity of the Rental.

City	All Listings	Private Room	Entire Home	Listings within .5mi of Coast	Private Room within .5 mile	Home within .5 mile
Del Mar	$265.20	$90.36	$269.99	$268.33	$90.36	$273.41
Carlsbad	$153.72	$133.90	$156.50	$174.27	$152.05	$175.20
Oceanside	$150.62	$117.55	$157.00	$166.10	$126.52	$167.82
Solana Beach	$199.46	$137.45	$204.27	$215.87	$154.48	$217.79
Encinitas	$177.66	$176.20	$178.23	$194.60	$200.62	$194.50

Figure 13 below shows a scatterplot of short-term rental listings from the summer (June, July, and August) of 2018 obtained from an independent source, Transparent Data (https://www.seetransparent.com). In this figure, affordable rentals (as defined by the California Coastal Conservancy) are depicted in green and unaffordable listings are depicted in red. As one gets closer to the coast, most listing become unaffordable; although, as indicated in Table 9 above, Oceanside still has many affordable listings within half a mile of the coast.

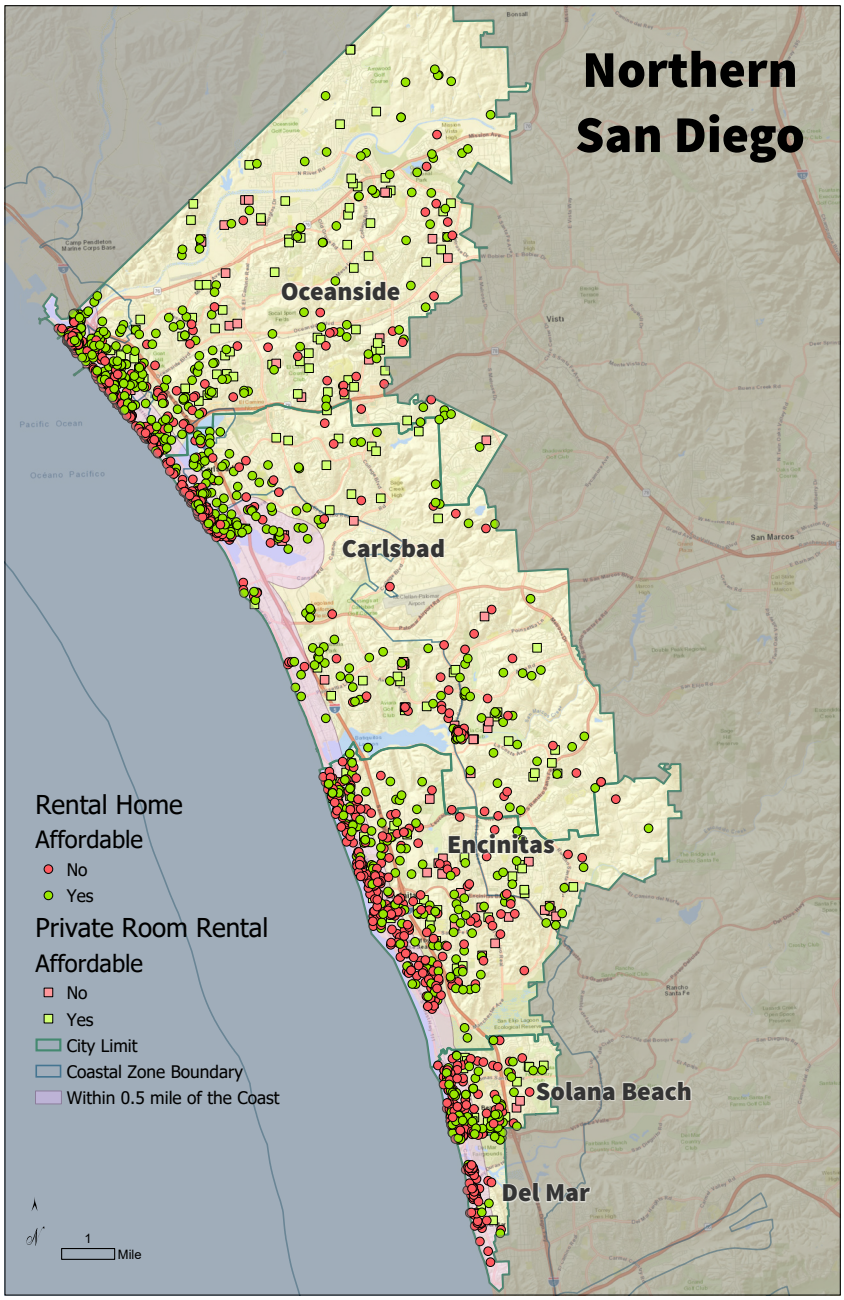


Figure 13: Distribution of STRs in North San Diego County Showing Affordability Increasing Further from the Coast. Special thanks to Dr. Kiersten Patsch for mapping.

Additionally, STR listings in North San Diego County appear to be affordable or expensive in clusters. Figure 14 below constructs an average cost map which grouped the listings in 100-meter segments around average cost and color codes the average price for each 100-meter area. The map shows that prices of STRs cluster into groupings of high costs (for example, greater than $500 a night) and low costs (less than $100). Average prices are noticeably lower (the darker red) in Oceanside and further inland. Del Mar has more high-priced clusters (pale yellow, indicating more than $500 per night). While in some areas STRs are largely unaffordable according to the cost per two people per night, in many cases they are still more affordable than hotels, partially because a group or family would need many rooms at a hotel rather than a single home. Additionally, the supply of STRs helps lower prices and reduce the price hikes in the summer season as discussed in previous sections (Zervas 2015).

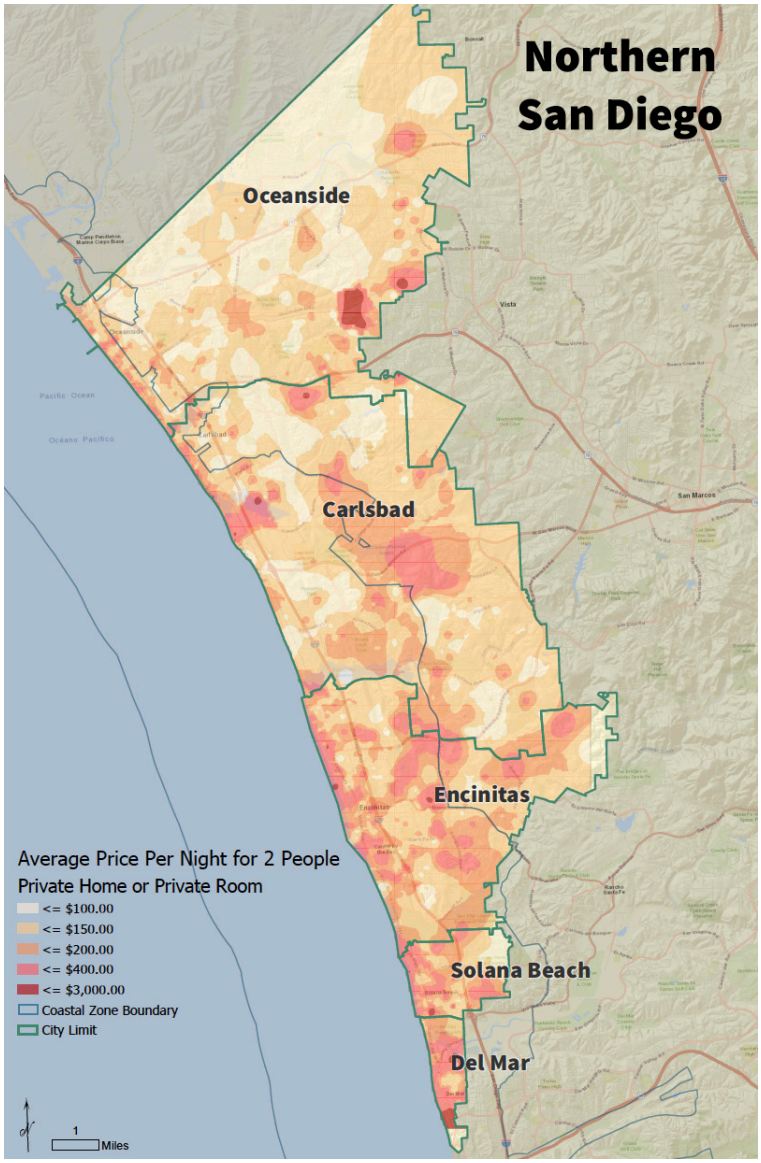


Figure 14: Distribution of Average Price of STRs in North San Diego County Showing Affordability Increasing Further from the Coast. Note that Del Mar, Solana Beach, and Encinitas have far fewer listings at less than $100, or even $150.

Finally, Table 10 and 11 below present affordability by number of listings. As the maps above suggest, the City of Oceanside has both the highest percentage and the highest number of affordable rentals, both homes and private rooms. The City of Carlsbad has similar percentages of affordable rentals, and Solana Beach and Encinitas also providing some affordability. Once again, Del Mar has the lowest percentage of affordable listings no matter how one looks at the data.

Table 10: Affordability (Defined here as 75% of California Average Daily Rate) for All Listings, compared to those within a half mile of the coast.

	Affordable by Statewide ADR			
City	**Number**	**Percent of Listings**	**Within 0.5 mi of coast**	**Percent of Listings**
Del Mar	12	16%	10	13%
Solana Beach	80	30%	40	15%
Encinitas	183	41%	78	17%
Carlsbad	229	52%	89	20%
Oceanside	455	52%	232	26%

Table 11: Comparing affordability of listings when defined using California ADR or the ADR of San Diego County, which is higher. Although there are more listings at 75% or less of SD ADR, Del Mar still lacks affordability.

	Affordable by Statewide ADR		Affordable by Local ADR	
City	**Number**	**Percent of Listings**	**Number**	**Percent of Listings**
Del Mar	12	16%	19	25%
Solana Beach	80	30%	103	39%
Encinitas	183	41%	233	52%
Carlsbad	229	52%	278	63%
Oceanside	455	52%	551	63%

Tourism as a Revenue Source

The lack of affordable accommodations not only impinges on access for low- and moderate-income Californians but also reduces the potential tax revenue of the municipalities. All of these coastal communities rely on tourism, and the coast is the primary draw. The cities of North San Diego County draw a large share of their tax revenues from the tourism industry, and one of the primary ways in which they do this is through Transient Occupancy Taxes (TOTs). As discussed, TOTs impose a tax on visitors when they stay in the community. Traditionally this tax was collected primarily through the hotel sector, but increasingly STRs have made important contributions to TOT revenues. In all of the North San Diego County cities examined here, TOTs make up a significantly higher portion of the tax revenue for that city when compared with the county overall.

TOTs have been rising over time, despite there not being a drastic boom in hotel construction or dramatic change in consumer preferences. This is likely due to the increased presence of STRs in the coastal accommodation market and efforts by municipalities to collect TOTs from them. Carlsbad and Oceanside are larger cities with greater tourist draw. They also tend to be more affordable and less exclusive than the Encinitas, Solana Beach, and especially Del Mar. These three smaller, more exclusive communities have seen similar growth in TOT revenues, although on a much smaller scale due to their smaller size and reduced number of lodging options. It is harder—and more expensive—to stay in one of these areas.

TOTs can offer municipalities a crucial source of funding for projects such as adaptation to climate change, affordable housing, and public services which tourists place increased demand on. They offer an alternative to GHADs where the residents pay for an independent authority tasked with protection from geological hazards such as sea level rise. Wealthier communities, such as Del Mar and Encinitas, possess GHADs. Solana Beach is also considering adopting a GHAD (City of Solana Beach 2019, 7). Oceanside, less wealthy and more diverse, does not possess a GHAD. The potential problem with GHADs is they tend to focus on armoring rather than more sustainable coastal options, which can reduce coastline and therefore coastal access. Due to the nature of the funds, they can also reinforce exclusivity as the residents nearest a particular stretch of coast pay for its protection.

In order to increase potential TOT revenues, coastal communities could turn towards STRs as a reliable source of revenue. While it takes years and millions in investment to build a hotel, STRs capitalize on and expand the use of existing property. To benefit from this revenue source, municipal governments need to embrace rules that balance the legitimate concerns of neighbors, particularly in residential neighborhoods, with California's stated goal of access for all. Restrictive STR regulations can hinder small, "Mom and Pop" rentals from the market through commercial zone restrictions and exorbitant permitting and licensing fees. The fewer the number of nights available in STRs, then the smaller the TOT revenue leading to a lost opportunity for a community to capture the benefits of the tourism market.

Regulating STRs

The policies cities enact determine how they structure the market for STRs and can affect access to the coast. Del Mar and Oceanside illustrate this dilemma well. They have chosen divergent responses to STRs that reflect the makeup of their communities. Del Mar has very restrictive regulations that prohibit STRs in residential zones and limit their operation to the Residential-Commercial (RC) zone and the Visitor Commercial (VC) zone. This means that homeowners in a residential zone cannot rent out their vacation home or spare room without risking fines. In 2017, the city attempted to pass additional restrictions to limit STRs to no more than 28 days out of the year and impose a minimum seven day stay for visitors, while restricting STRs to the Residential Commercial and Visitor Commercial areas of the city. In the interest of providing greater access to the coast, the law was rejected by the California Coastal Commission on the grounds the proposed ordinance would negatively impact public access and affordability (Schwing 2018, 2). The staff recommended no nightly minimum and a 180-day cap, while the Commissioners themselves eventually settled on a 3-day minimum and 100-night annual cap. Del Mar rejected the Coastal Commission position and is suing the state to overturn the decision. The attempt is indicative of the attitude in Del Mar towards STRs and the various ways cities enact policies which curtail affordability and reduce lodging supply.

Another policy which can detrimentally impact the affordability and supply of short-term rentals in these communities is permitting. While municipalities need to keep track of their STRs and collect transient occupancy taxes, the high cost of these permits prevents many potential hosts from renting and increases the costs of the rental. Permits range in costs and often come with secondary fees, such as costly inspections and business licenses. Cities in North Coastal San Diego attach a variety of fees to their STR permits. Solana Beach, for example, charges $100 for a new permit and $55 annually to renew; Encinitas' permit costs $150; in Carlsbad the permit is free, but a business license is required at a cost based on revenue; and Oceanside's permit costs $250. Information on Del Mar's permitting was unavailable due to the pending ban. These high costs can drive some hosts towards renting illegally and others to pass the costs on to their renters, reducing coastal access. These fees are summarized below in Table 12.

Even in cities that allow short-term rentals, there can be high costs that pose a barrier to entry for potential STR operators. Permitting is one example, and punitive fines are another. As discussed earlier in this paper, some regulations on STRs can impose high risks to the host. Fines accomplish just that. Imposed for violations of ordinances, these fines can work to enforce bans on STRs. In many cities the fines are aimed at long-term zoning compliance and obtaining back taxes. The crackdown in Encinitas showcases this with fines starting at $250. Ordinance violations in Solana Beach start at $500, and a second violation costs $1000. While many areas impose these penalties, the amounts and causes are not easily discerned. Oceanside—which has the most permissive policies of this study—makes the penalty known, stating that a violation of policies will result in a misdemeanor and a fine up to $1000. However, unlike many of the more exclusive communities their policy provides for a greater range of legal STRs. If cities wish to bring operators into compliance and preserve affordability, high penalties undermine this goal.

Oceanside, more affordable and diverse, is much more accommodating to visitors wishing to rent a home or room for a short stay and visit to the coast. Oceanside's policies make a trip to the beach and coast an affordable luxury to many Californians. The city allows short-term rentals in the residential areas provided rentals meet certain limits and adhere to its Good Neighbor Policy. Oceanside has many more STRs but it is also larger than Del Mar or Solana Beach. The higher

number of STRs offers visitors many more accommodation options, especially in high season when rooms on the coast are hard to find and campsites are booked. Similarly, Carlsbad offers more affordable STRs than the other North San Diego County coastal cities. The city requires short-term rental operators to comply with its Good Neighbor Guidelines as well, which include provisions about noise, trash, and parking.

Table 12: Short-Term Rental Regulations

Jurisdiction	Attitude toward STRs	Key Regulations
Del Mar	Very **restrictive**. The City attempted a limit of 28 days per year (blocked by California Coastal Commission). In Court proceedings with California Coastal Commission.	Attempt to prohibit almost all STRs **Zone Restrictions:** Not permitted in Residential Zones, only permitted in Residential Commercial and Visitor-Commercial and where the development allows it **Night Caps:** Proposed 28 days per calendar year. 7 night minimum for all stays
Solana Beach	Fairly **restrictive**. Rentals allowed in Residential areas if stay is over 7 days, but enforcement of penalties is strict.	**Zone Restrictions:** Prohibited in Residential areas if less than 7 days **Fees and Permit:** $100 new permit fee with $55 renewal, $500 fine for first STR policy violation **Taxes:** Host has to collect TOTs
Encinitas	Recent crackdown to be more **restrictive**.	**Zone Restrictions:** Single family and duplex dwellings only. Multi-family dwellings and condominiums are prohibited from usage as short-term rentals in residential zones. **Fees and Permits:** $140 permit annually, policy violation fines starting at $250 **Taxes:** 10% transient occupancy tax hosts are to collect from renter
Carlsbad	Very **restrictive** except in the coastal zone.	**Zone Restrictions:** Banned in residential areas except in the coastal zone; required to comply with "Good Neighbor Guidelines" **Permits and Fees:** Permit required (free) and business license required (cost variable) **Taxes:** STRs are subject to a 10 percent transient occupancy tax as well as a $1 per room per night Carlsbad Tourism Business Improvement District assessment due monthly to the city.
Oceanside	**Permissive** in coastal zone.	**Permits and Fees:** All STR operators are required to apply for a STR permit (fee required) unless the STR property is a hosted unit or part of a gated HOA; violations are a misdemeanor with up to $1000 fine **Policies:** Minimum 2-night stay, curfew on daytime guests at 10pm, and limits on overnight occupancy **Taxes:** TOT collected by Airbnb in agreement with City **Night Caps:** Minimum 2-night consecutive stay

The different approaches of Del Mar and Oceanside reflect the nature of regulations in these communities. Del Mar restricts affordability through little affordable development and harsh restrictions on STRs, preserving the exclusivity of the community. Oceanside's policy is not perfect, but the openness to STRs aligns with the diversity of the community and lower housing costs. Oceanside is one of the few coastal communities that has not carved out an affluent, exclusionary enclave for its residents on the coast. Del Mar, and other communities with strict regulations severely limiting the ability of STRs to operate along the coast, reduce the supply and affordability for visitors. Communities with more reasonable regulations—designed to create harmony between STRs and permanent residents—can promote STRs, thereby increasing the supply of accommodations and lowering cost. This helps promote access to the coast without costly investments in new hotels or campgrounds.

City of Pismo Beach

In Pismo Beach the story of short-term rentals and affordability is more complicated. Pismo Beach's policy is touted as one of the model STR ordinances by the California Coastal Commission, yet the city lacks affordability in accommodations. While the City is open to short-term rentals, possibly because of its reliance on tourism for the economy, it's like the majority of the other North San Diego cities: white, wealthy, and older, demographics which have been shown to dominate the coastal zone in the state (Reineman 2017). Despite this similarity, Pismo Beach has a more permissive regulatory environment than Del Mar and other small, wealthy towns. The city is more open to the existence of STRs without attempting bans and stringent restrictions on rental operators. However, without measures to reduce costs there remains a persistent lack of Lower Cost Coastal Accommodations (LCCAs) to meet the needs of the majority of Californians and provide access for all.

Affordability in Pismo Beach

Pismo Beach is an affluent area, like much of the coast, with high median incomes and home values out of reach for most Californians. The concentration of affluence in housing creates a need in Pismo Beach and in Santa Barbara, as it did in North San Diego County, for the construction of intentional housing for those of lower means. The Regional Housing Needs Assessment conducted by Pismo Beach (2019) revealed the city needs 62 homes to meet the needs of extremely low, very low, and low-income families—41% of their overall housing need. Like much of the coastal region, these costs and lack of affordability push families inland and away from coastal access.

Affordable Accommodation and STRs

The lack of affordability in Pismo Beach extends to both traditional lodging options and short-term rentals despite the city's hospitableness. The city appears to lack any affordable hotel options. It is, however, close to state beaches with camping options. As previously mentioned, those options fill up quickly and may not meet the needs of all visitors. In particular, camping may not be an option for those who lack the means to purchase equipment.

While STRs offer lower rates than some hotels, this study found only 38 rentals that would be considered Lower Cost Coastal Accommodations (LCCAs) by the Coastal Conservancy standard. This amounts to only 25% of all rentals in the area. It is worth noting that almost all (96%) of Pismo Beach rentals are within a half mile of the coast where prices tend to be higher, but that percentage of affordability is still very low.

Although Pismo Beach generally embraces STRs, the city requires operators to apply for a permit—at cost of $399—and a business license, totaling over $450 in comprehensive fees. This permit cost has the impact of (1) discouraging homeowners from becoming hosts and therefore reducing the supply of rental, and (2) passing on that high cost on to visitors in the form of higher rates. Overall this reduces affordability. Mapping the location of STRs in Pismo Beach shows that they overwhelmingly are near the coast but also expensive. The location is ideal for visitors, but likely inaccessible to those with stricter budget constraints because of the lack of lower cost accommodations.

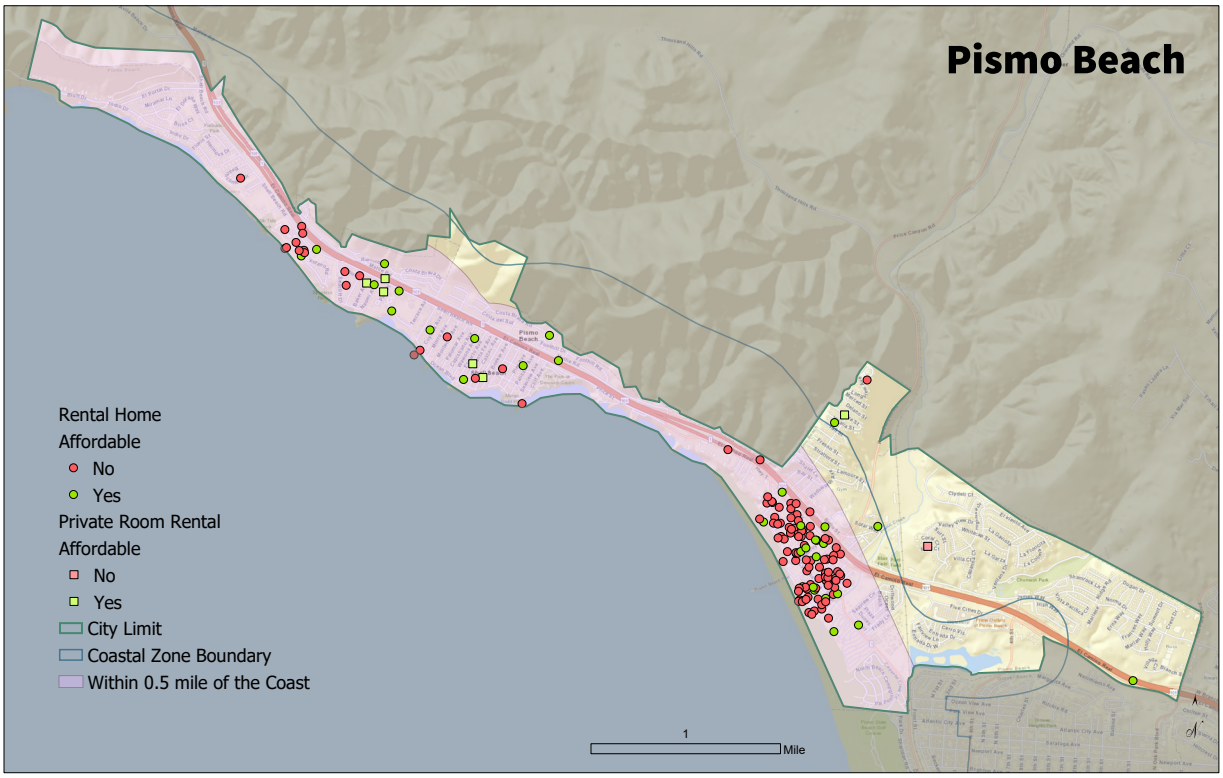


Figure 15: Mapping the STR listings in Pismo Beach shows the close proximity to the coast and general lack of affordability.

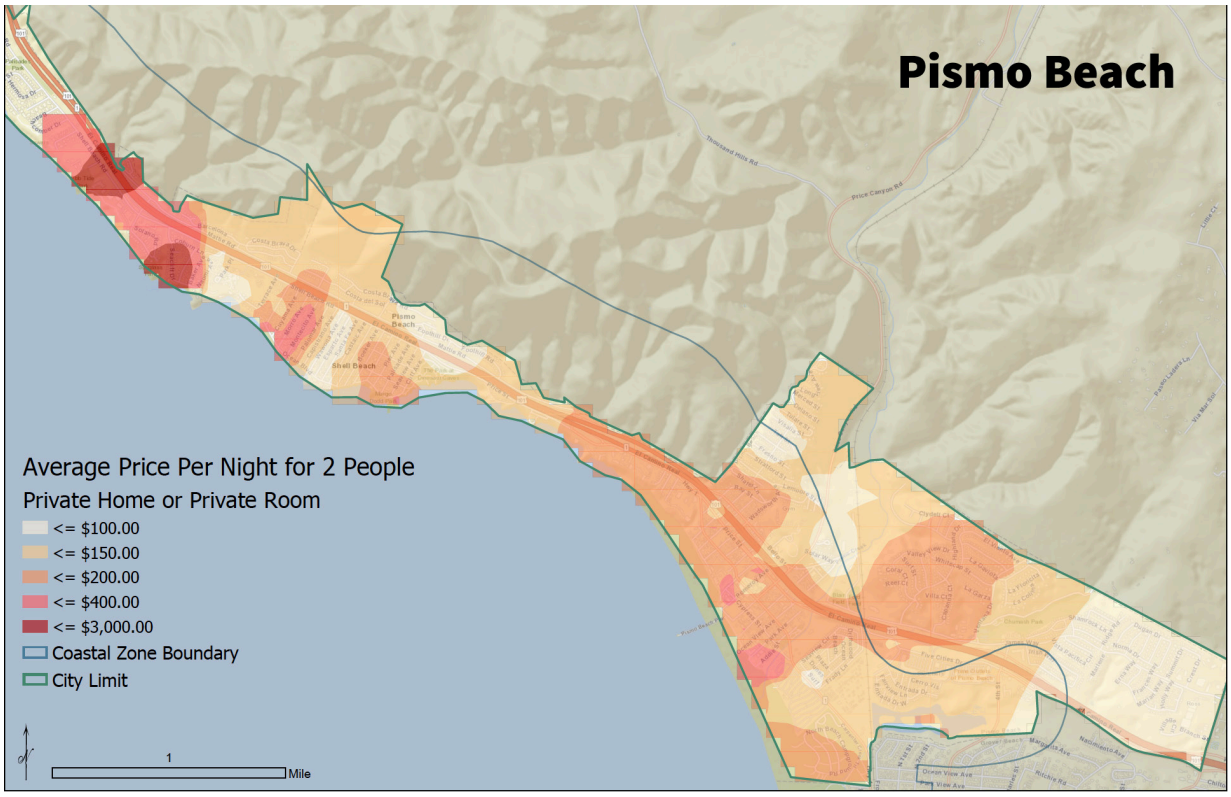


Figure 16: Looking at average cost clusters for Pismo Beach shows the concentration of expensive listings.

Reliance on Tourism

Although there are not sufficient LCCAs in either Santa Barbara or Pismo Beach, there are many hotels. These fill up in the high season and the campgrounds book up far in advance. There are over 150 hotels between these two communities, and both derive much of their economic base from tourism. Pismo Beach collects nearly half its revenue via TOTs, and their collection has increased over time[12]. This reliance on tourism may contribute to Pismo Beach's openness to STRs as part of its efforts to foster tourism and keep the town thriving. In fact, Pismo Beach's STR policy notes that the loss of TOT revenue in part motivated the regulation. With the high cost of new hotel construction, existing informal home sharing and the promise of more STRs via new platforms offer a much faster source of renewable tax revenues. This may explain why Pismo Beach lacks the affordable hotels that Oceanside offers but has a relatively permissive STR policy. The caveat is, of course, the high fees which keep affordability low and impact access to the coast.

Regulating Short Term Rentals

Despite the over $500 cost to operate a legal STR, Pismo Beach has been heralded by the Coastal Commission for its model STR ordinance. However, the combined cost of the permit application, business license, and the added delay of inspections reduce the ability of operators to charge affordable rates for their rental listings. The city allows short-term rental operators to share their primary residence year-round with no nightly cap if they are present for the duration of the stay and pay the $500 in fees associated with obtaining a permit. If the STR is not the primary residence, or the operator is not present, the unit has to be in specific zones. While there is a limit of 182 days per year on unhosted stays, the duration means a unit can be rented for more than the entirety of the high season.

While the City's rules promote the supply of additional accommodations and in turn increased access to the coast, the expensive fees create a barrier to entry for potential short-term rental operators and thus restrict the number of potential accommodations along the coast. As expenses of permitting, licensing, and potential fines are passed on to renters, affordability diminishes. This reduces access for those who need access the most. It also reduces the City's TOT revenue since fewer properties are registered and therefore fewer taxes being collected.

Table 13: Short Term Rental Regulations in Pismo Beach

Jurisdiction	Attitude toward STRs	Key Regulations
Pismo Beach	Relatively Permissive	**Zone Restrictions:** Allowed in almost all residential zones and planned zones at primary residences **Permit and Fees:** $399 permit application fee, business license required (fee required), minimum violation $750 **Taxes:** host collects TOTs **Night Caps:** Limited to 182 days per year *without the owner present*

12 Data compiled from the Comprehensive Annual Report for 2018 in Pismo Beach. https://www.pismobeach.org/DocumentCenter/View/53246/FY-2018-Annual-Financial-Report

Santa Barbara

Unlike Pismo Beach, Santa Barbara has a restrictive policy towards short-term rentals. The city has more in common with Del Mar and their attempted ban on STRs. The City of Santa Barbara regulates STRs as hotels for zoning purposes. Therefore, the City of Santa Barbara considers any listings operating outside of areas already zoned for hotels illegal. With this ban, the city removed the option for many homeowners to rent out unused space to visitors and confined visitors to tourist areas. These rules reinforce the exclusivity of the community and impose great risk to hosts who may be forced to list their vacant property illegally. Such listings also do not contribute to city TOT revenues.

Affordability in Santa Barbara

Santa Barbara's policies towards STRs reflect the expense and exclusivity of the city overall. The median home price in Santa Barbara, according to Zillow.com (2019) is $1.14 Million—almost twice the average for Santa Barbara County let alone California overall. Santa Barbara's assessment reveals the need for 1,461 additional homes in the Very Low- and Low-income categories, or 47% of their total housing need. The lack of affordability extends to hotels as well. In Santa Barbara the ADR in July 2018 was $227.60, and a prospective visitor only finds a couple of options with "affordable" rates in July—two with rates less than $137 nightly. These options are further from the beaches and appear not to offer sufficient beds (at that rate) for a family to stay overnight. Santa Barbara is close to state parks with campgrounds as well as RV parks; however, as previously discussed, there are limitations not only on the number of sites but also on the viability of camping as an option for some families.

STRs, Legality, and Zoning in Santa Barbara

The study of rental listings from summer 2019 reveals the nuances of the Santa Barbara policy on the affordability of STRs. The City of Santa Barbara is unique, in this study, because in 2015 it began a "heightened enforcement program" of its zoning regulations with the objective to remove STRs from areas where they had been allowed before 2015 (Kracke v. City of Santa Barbara, 2019). **By classifying rentals as "hotels," and therefore restricting them to zoning that allows hotels within the city, Santa Barbara has greatly reduced the affordability of rentals near the coast.** These zoning laws, then, allow very few legal rentals within close proximity to the coastline as shown in Figure 16. The crackdown on rentals outside the commercial zone, including those in the coastal zone, constituted a change in policy for the city. Prior to 2015, the city had an informal practice of recognizing and allowing STRs provided they paid TOTs and received no complaints (Kracke v. City of Santa Barbara, 2019). In 2010 and 2014, the city attempted to bring more STRs into compliance, hoping to increase TOT revenues (Kracke v. City of Santa Barbara, 2019).

In 2015, Santa Barbara changed its enforcement and began what constitutes a ban on STRs, because even where zoning allowed for STRs, other requirements and the difficulty of navigating the system prevent operation[13]. As a result, only 7% of all listings in Santa Barbara fall within a half mile of the coast and meet the California Coastal Conservancy's definition of Lower Cost. Although one-third (33%) of citywide listings are affordable, these cluster further from the coast as shown in Figure 17. Many of the more affordable listings for Santa Barbara were actually outside of the city limits where the regulations are less strict. Furthermore, obtaining a permit to legally operate a STR in Santa Barbara is nearly impossible. The City in 2017 had not issued a permit in over two years, according to a recent lawsuit, even for homes in the correct zoning (Santa Barbara Short Term Rental Alliance, 2017). Many homeowners face this obstacle even after going through the costly process of inspections—and even remodels.

The city's ban on STRs violates the California Coastal Act and fails to comply with the California Coastal Commission, according to a recent lawsuit (Kracke v. City of Santa Barbara, 2019). The Court found that Santa Barbara's enforcement of zoning regulations changed the access and use of the coast, and that in order to do so they would have needed permission from the Commission to remove STRs in the coastal zone since STRs allow access for more visitors, especially those of lower incomes. A ban on STRs, because of the access they provide, would not be legally enforceable (Kracke v. City of Santa Barbara, 2019).

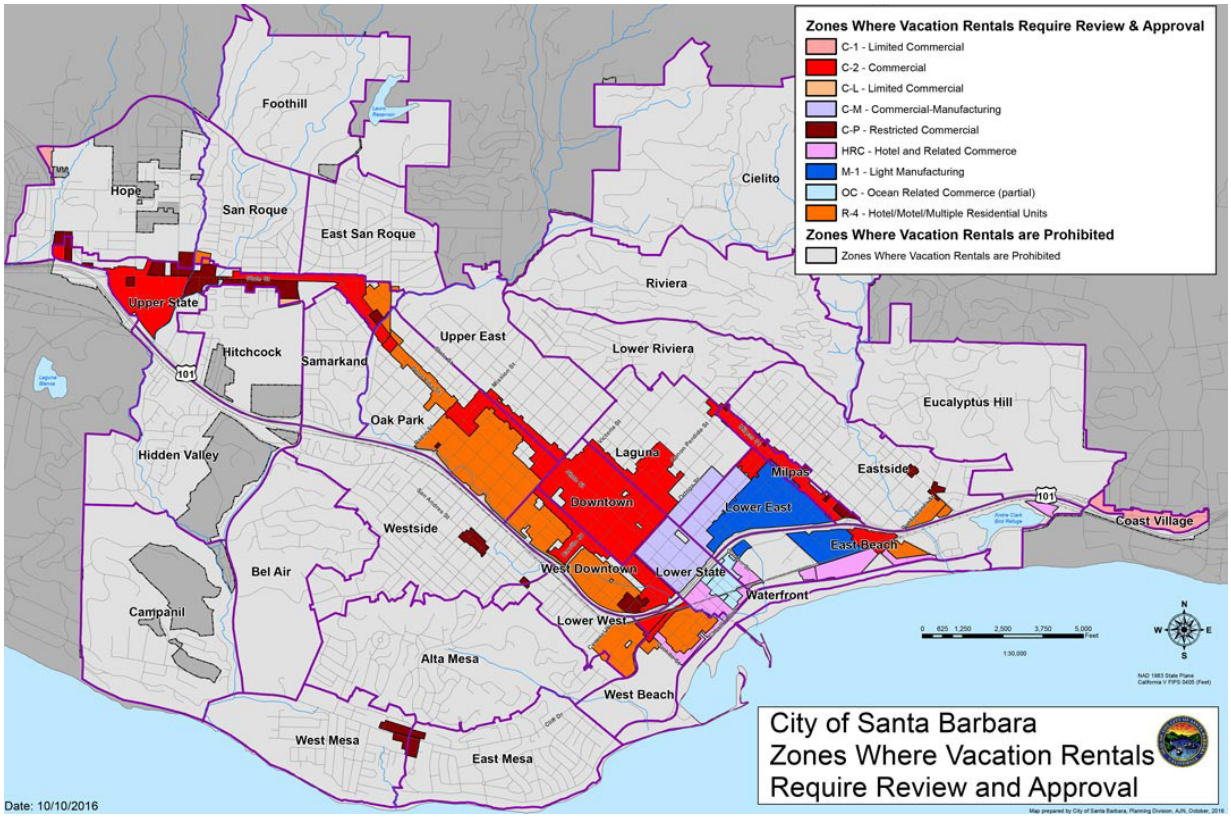


Figure 17: Map provided by the City of Santa Barbara showing zoning where hotels (and STRs) are legal, 2017.

13 Council Member for the City of Santa Barbara is quoted in the Ventura Superior Court findings as stating: "I think it's incredibly confusing...it truly isn't possible, except in very rare circumstances for someone to provide the off-street parking, to meet the code requirements, to actually pull that off, as evidenced by there's only one who—after a two-year process—to successful navigate that system" (Kracke v. City of Santa Barbara, 2019, 9).

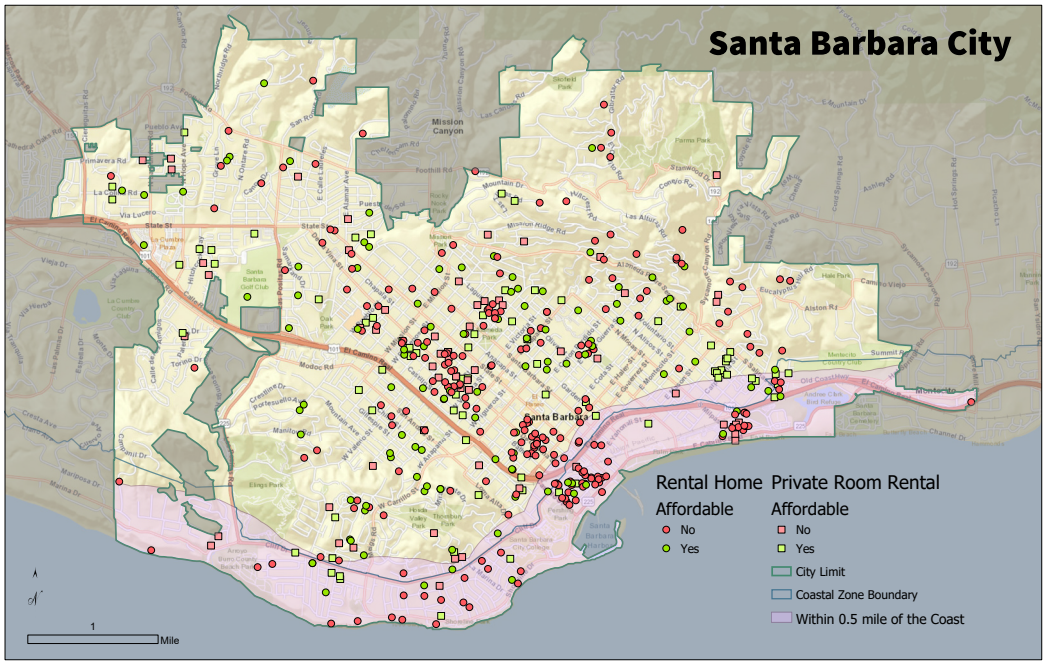


Figure 18: Summer 2018 STR listings for the city of Santa Barbara. Listings do not adhere entirely to the map of legal areas and tend to be less affordable along the coast (only 7% of listings within a half mile are Lower Cost Coastal Accommodations)

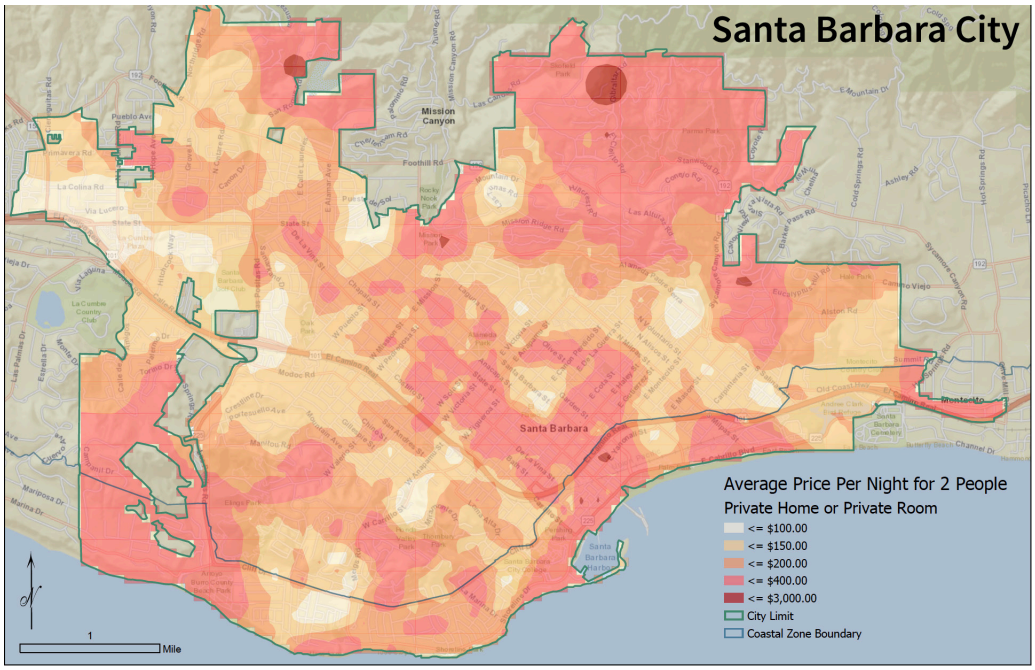


Figure 19: A map of average price clusters in Santa Barbara City, showing the high cost (yellow) along the majority of the coast.

Regulating Short Term Rentals

Santa Barbara and Pismo Beach make an interesting comparison of policy implications since their policies differ significantly in how they regulate STRs. Santa Barbara shares much in common with Del Mar, severely restricting STRs and thereby reducing the supply of coastal accommodation. In Santa Barbara, STRs constitute hotels for zoning purposes and are therefore illegal if operating outside of the areas where hotels are allowed. With this ban, the city removed the option for many homeowners to rent out unused space to visitors and confined visitors to tourist areas. These rules and regulations reinforce the exclusivity of the community. Such listings also do not contribute to city TOT revenues. **Bans on STRs claim to preserve neighborhood characteristics and promote public safety; however, they really succeed in restricting access to expensive coastal communities and preserving their exclusivity.** With little local support for affordable housing development or lower-cost accommodation options (the most feasible being STRs), many inland low-income and underserved populations are effectively barred from visiting the City of Santa Barbara.

Table 14: STR Regulations in Santa Barbara City

Jurisdiction	Attitude toward STRs	Key Regulations
Santa Barbara	Very Restrictive, STR's effectively banned	**Zone Restrictions:** Considered hotels and therefore illegal outside of areas within the commercial zone that allow hotels **Permits and Fees:** Permit required, if STR is in hotel district and therefore legal **Taxes:** Required to be collected

Discussion

The case studies in this section indicate that restrictions on STRs can take many forms—from outright bans to high permitting/licensing fees to restricting visitors to areas which already serve tourists through more traditional overnight accommodations. Perhaps unsurprisingly, our case studies also show a very strong correspondence between communities, like Del Mar and Santa Barbara, which have limited affordability for traditional long-term rentals and have few affordable options for potential homeowners who are not already affluent and restrictions on short-term rentals. One common argument against STRs is that they increase prices for long term residents and lead to gentrification. However, the case studies in this section indicate that the areas restricting STRs the most (Del Mar and Santa Barbara) are also areas that have already limited affordability for long-term residents. Conversely, the City of Oceanside has more affordability for both long-term and short-term residents than any other coastal city in this study. Oceanside has also created a "Good Neighbor Policy" (included in an appendix to this study), which does levy significant penalties against STR hosts and tenants who violate these policies, indicating that cities can strike a balance between protecting and preserving residential neighborhoods and allowing access to the coast. Our case studies also reveal, however, that many policies that are designed to preserve residential neighborhoods along the coast, already enclaves of affluence, effectively limit options for middle class and underserved communities who not only have been priced out of the residential market but now find themselves restricted out of the short-term rental market as well. Access for all has now become access for the affluent only.

Pismo Beach also represents an interesting case study since its policies have received some support within the coastal community. Unfortunately, a close inspection indicates that Pismo Beach still has a limited number of affordable rentals despite being more accommodating than some other communities. Our analysis reveals that Pismo Beach's permitting and licensing fees are quite high even compared to other communities in this study. Pismo Beach also restricts STRs to primary residents. Ostensibly a policy limiting STRs to primary owners reduces the demand for second homes. However, like most other coastal communities in these studies (except Oceanside), Pismo Beach's home prices are already beyond the means of the vast majority of Californians, restricting STRs to primary homeowners simply restricts affordability of STRs. Similarly, high permitting and licensing fees discourage homeowners with more modest (and hence affordable) accommodations from renting out their homes short-term. In many cases, this may lead to homes that are unoccupied despite a high demand for STRs.



Solutions

Access for All

The California Coastal Act guarantees "maximum access"[14] to California's iconic coast and beaches. To that end, the Coastal Commission has endorsed promoting coastal access and prohibiting private beaches anywhere in California. However, as discussed in more detail in the first section of this study, among many threats to coastal access in California the most significant is the high cost of coastal real estate which has forced millions of Californians to migrate inland to find more affordable housing. This inward migration has disproportionately impacted people of color and Californians from low to moderate-income groups. Those displaced inland face much higher costs for a coastal visit than those living closer to the coast. Today, too many of California's beaches have become effectively inaccessible to minority communities and lower income residents.

One possible method to increase access to the coast is to promote affordable overnight accommodations. Although Californians have a variety of options for staying on the coast, most are expensive and many are unavailable during peak season between June and September. The same factors that have driven up the price of residential real estate along the coast have also driven up the cost of overnight accommodations in that area. Studies by the California Coastal

14 1976 California Coastal Act, Section 30210.

Conservancy and the California Coastal Commission indicate this problem is getting worse: many low-cost accommodations have closed and in many cases, the real estate has been transferred to other uses.

Short-Term Rentals

Short-term rentals (STRs) have long been one of the alternative lodging options available to California's coastal visitors. STRs use existing homes and structures to provide additional accommodation for coastal access. Since most homes are unoccupied some of the time, STRs provide a simple, sustainable solution to the problem of coastal access. When planning for sea-level rise, using short-term rentals in existing structures may be a more sustainable alternative to building new structures for lodging on the coast. Unlike hotels, increasing the quantity of available STRs does not require more construction along California's coast. In simple economic terms, allowing more STRs increases the supply of short-term accommodations on the coast. Further, many STRs provide kitchens and accommodations for multiple households, further lowering the costs of overnight stays, especially for low and moderate-income groups and large families.

Limiting STRs along the coast, particularly during the busy summer months, limits coastal access. During the summer, traditional overnight accommodations are scarce and often must be booked months in advance. Every family that cannot find or afford a short-term rental is a family that cannot stay overnight on the coast and perhaps cannot visit at all.

At the local level, one of the primary reasons given for discouraging STRs is that short-term renters contribute to noise, parking problems, and may otherwise disrupt a quiet residential neighborhood. In many ways, these arguments against STRs are a replay of the arguments used to block other types of housing in coastal communities that led to the housing crisis in the first place. **These STR restrictions imply that Californians, who can no longer afford to *live* near the coast, can now no longer afford to *visit* the coast.**

Best Practices for Regulating STRs

The case studies and literature review contained in this paper point toward regulatory practices that can allow access to the coast while also ensuring that neighborhoods remain safe. However, some regulations pertaining to STRs can also have the effect of limiting access, especially for lower income households and underserved communities. To ensure regulations promote access, we recommend the following best practices.

Best Practice	Rationale
Simple, streamlined registration	Reduces the costs to operators as costs are passed on to renters and reduce affordability
Make permitting easy and swift	Allows for more affordability by making it easier to increase the supply of STRs and also encourages registration with the City
Cities require TOT payment and cooperate with STR platforms where possible	Ensures TOTs are collected from all operators
Allow STRs in most or all coastal neighborhoods	Increases affordability near the coast, helping increase coastal access for those who need it most
No minimum on number of nights	Ensures that families who cannot afford multiple nights can still visit the coast
Maximum night cap of 180 nights or more. No night cap on shared space rentals	Helps promote affordability via greater supply of STRs supported by Commission
Ensure compliance with "Good Neighbor Policies" and make renters aware of rules	Promotes harmony between STRs and the residents neighboring them and promotes public safety
Require parking when reasonable	Reduces traffic associated with STRs and promotes agreement with local residents. Reduces parking costs for visitors

Best Practice: Simple, streamlined registration, especially for owners renting out their homes for limited periods.

The case study of Pismo Beach in this report is particularly instructive. Although Pismo Beach is accommodating to STRs in many regards, its permitting fee, coupled with a business license requirement, push costs up to over $450 per rental per year. By comparison, a California Driver's License costs $37 and is typically good for several years. Costly inspections of residences already in compliance with local codes should be limited to properties that are rented more frequently.

Best Practice: Make permitting easy and the process swift.

In addition to lowering permitting fees, communities should make it easy and quick for owners to legally register their property for as a short-term rental and pay the required transient occupancy taxes. Allowing online registration, providing a one-page registration sheet, and ensuring the permitting process is straightforward and efficient are among the ways communities can achieve this goal.

Best Practice: Cities should require and enforce the payment of TOT taxes on STR rentals, collaborating, when possible, with STR Platforms to ensure maximum collection.

The generation of TOT taxes by STRs is an important benefit to the communities where rentals are allowed, and communities should maximize the collection of those taxes to support local services. When possible, cities should collaborate with STR platforms to ensure that all taxes are collected. This practice is already underway in some coastal areas, including the City of Carlsbad. These practices ensure that all STRs are in compliance with the tax policies and generate revenues that can be used to increase resilience.

Best Practice: Allow STRs in most or all coastal neighborhoods.

Some coastal cities (e.g., Carlsbad) allow STRs to operate in the Coastal Zone, promoting coastal access with fewer restrictions. However, many communities (e.g., Santa Barbara) have restricted STRs to commercial zones where hotels already exist. This practice significantly reduces the availability of short-term rentals and often pushes visitors into already busy tourist areas. If this commercial area is away from the coast (as is the case for much of Santa Barbara) then such policies may also increase traffic/parking problems along the coast as more families decide to drive to the beach. Restricting rentals to commercial zones further from the coast also increases the rates of those STRs nearest the coast, pushing low- and moderate-income Californians to less sought-after areas. The net effect here is, once again, a reduction in access to the coast for low- and moderate-income households.

Best Practice: To ensure maximum access, communities should not place minimum restrictions on the number of nights that a residence can be rented.

Del Mar and many other coastal communities have placed restrictions on the minimum number of nights a visitor must stay. Placing three-night or seven-night restrictions on renting limits access, especially for families who can only afford a one- or two-nights' stay.

Best Practice: Discourage restrictions which limit the total number of nights a residence can be leased as an STR.

Some jurisdictions have imposed a maximum number of nights per year that a residence can be leased as an STR. These restrictions also reduce the supply of overnight accommodations on the coast. For example, when Del Mar imposed a 28-day maximum, the California Coastal Commission staff recommended that this restriction on coastal access be modified to a 180-night maximum (or "cap"); however, the final Commission recommendation was for a 100-night cap.

Best Practice: Communities should expect short-term renters to adhere to all rules and regulations regarding noise, excess visitors, and trash. All short-term renters should be made aware of this when they check-in.

The City of Oceanside's **Good Neighbor Policy** (in appendix) provides a good example of this best practice. The city provides all short-term renters with a one-page overview of city rules for STRs including fines for those who violate these rules. These rules limit noise and trash and additional visitors are limited to day-time hours. The City of Oceanside's policies include serious fines (and in some case eviction) for those who violate these policies.

Best Practice: In communities where parking is an issue, communities should require STRs provide adequate parking. Communities and short-term rental owners should also encourage local modes of transportation besides cars, such as STR-provided bicycles, local buses and shuttles, bike rentals, etc.

By encouraging rental owners to provide parking, hosts and cities can reduce the impact of traffic on the surrounding neighborhoods and also makes the cost of visiting less expensive for visitors who avoid parking costs or the cost of citations for illegal parking. It should also be noted, however, that some cities (e.g., Santa Barbara) have used parking requirements to create barriers to entry for new STRs. The increasing availability of short-term bike rentals by private vendors may also reduce parking at busy beaches and other coastal sites.

Enforcing these regulations will require some additional city resources. However, the transient occupancy and other taxes generated by STRs and the visitors they bring in should generate more than sufficient revenue to cover these costs. These regulations should also be enforced fairly, and enforcement should not be aimed at reducing the supply of STRs but rather at making sure all operators are following city regulations and tax policies.[15]

Creating Policies that Encourage Access for Low Income and Underserved Communities

Increasing STRs along California's coast will, by definition, increase access and will also likely lower prices. However, given the high price of accommodation, there may still be an affordability gap for many coastal visitors. The state, local governments, non-governmental organizations, homeowners, and short-term rental platforms must work together as stakeholders in order to ensure access for all. This process will likely involve a give and take among all stakeholders, but the ultimate goal should be clear: to make California's coast more accessible to everyone.

15 The importance of fair enforcement is illustrated by the ruling in *Kracke v. City of Santa Barbara*. The case centers around a change in enforcement by the City. Prior to 2015, Santa Barbara had conducted amnesty programs to "bring into compliance" STR owners and increase their collection of TOTs. However, after 2015 the City began "aggressive" enforcement of its zoning regulations, resulting in reducing the number of STRs, many of which were in the coastal zone. The key issue in the case was that by reducing the number of rentals in the coastal zone, the City effectively limited access, and this "development" required approval from the California Coastal Commission. The judge ruled that in light of this, and the lack of Commission approval for the change in enforcement, the City must return to the practices from prior to 2015 and allow STRs in the coastal zone.

In order to encourage access for low and moderate-income groups as well as underserved communities, the state or local communities may need to take other steps. We believe the following steps should be given serious consideration:

Recommendation	Rationale
State agencies, local governments, foundations and community organizations could **support and fund programs that encourage or subsidize low-income families or those from underserved communities to stay overnight near the coast.** STRs should be part of the solution.	Cooperation with NGOs helps these programs reach those most in need of easy access to the coast. STRs better serve large groups and families due to multiple rooms and varied facilities, such as kitchens. Many STRs are also more affordable for these groups.
Expand the Explore the Coast Overnight Program to Include STRs and include STRs in other pilot programs	It is easier to expand the supply of affordable accommodations through STRs, unlike other lodging forms such as hotels and campgrounds which require new construction on the coast.
Create **affordable STR program with determined eligibility**	Eligibility criteria helps ensure that Californians most in need of affordable accommodation have access to those STRs with affordable rates

Recommendation: State agencies, local governments, foundations and community organizations could support and fund programs that encourage or subsidize low-income families or those from underserved communities to stay overnight near the coast. STRs should be part of the solution.

A number of non-governmental organizations could be involved in sponsoring programs that would encourage greater access from underserved communities. For example:

- **Jr. Lifeguards:** Most coastal communities in Southern California have Jr. Lifeguard programs. However, access to these programs is often limited by how far households are willing to take their kids to these programs. Since these programs are typically during weekday mornings, STRs may help a group from underserved areas stay during the week.
- **Churches:** Coastal community churches may wish to sponsor church groups from underserved communities. Cities may wish to devote a share of transient occupancy taxes to support outreach efforts between communities of faith, which also create access to the coast.
- **Environmental and Social Justice Groups:** Environmental and social justice groups may wish to support or foster programs that encourage access to the coast. This could include subsidizing programs such as the Jr. Lifeguard and interfaith programs mentioned above.
- **YMCAs or Similar Organizations: (e.g., Scouts):** Local YMCAs, scouting, and similar organizations can sponsor overnight trips to coastal communities. Affordable STRs can provide part of the solution.

- **Surfing Organizations:** Local or national surfing organizations may wish to sponsor surfing events that encourage surfers from underserved areas.
- **Other Community Organizations:** Organizations such as Veterans of Forign Wars (VFW), Chambers of Commerce, and various other local groups could sponsor alliances with underserved groups to sponsor coastal access.
- **Foundations:** Both community foundations and larger foundations may wish to sponsor or subsidize programs that encourage visitors from underserved communities to come to the coast. Local governments can partner with these foundations.

Recommendation: The state or local governments should expand pilot programs which increase coastal access. STRs should be part of the solution.

For example, in 2017, the California legislature approved AB 250, which requires the State Coastal Conservancy to develop and implement a specified Lower Cost Coastal Accommodations (LCCA) Program intended to facilitate improvement of existing and development of new lower cost accommodations within one and a half miles of the coast. Although current lower-cost accommodations categories include hotel and motels, hostels, camping, RV's and trailers, dorm rooms, and residential outdoor education facilities (ROEFs) they do not include short-term rentals. We recommend that the State Coastal Conservancy work with the legislature to recognize short-term rentals as an additional category as part of the Explore the Coast Overnight program. As discussed in this paper, unlike other coastal accommodations, it's relatively easy to expand the supply of affordable STRs if the correct programs and incentives are in place. In contrast, creating new hotel rooms or other overnight accommodations is much more costly and also leads to more development along the coast, which many coastal groups oppose.

Recommendation: Create an Affordable STR program which provides reasonably priced overnight accommodations for eligible households.

Even with reduced restrictions on STRs in coastal communities, many families may be left out. Inexpensive STRs may be booked long in advanced by more experienced users. To ensure maximum access, the state (or possibly local governments) should consider a program which makes affordable STRs available eligible households. Eligibility might include means testing using household income or other legal criteria. The end goal would be to encourage access to the coast for families who might not go otherwise. Local governments may consider waiving or lower taxes and STR providers may consider waiving or lowering their booking fees.

Such a policy is also consistent with several recent Coastal Commission decisions involving the development of hotels along the coast. For some hotel developments the commission has required that 25% of rooms be set aside as affordable. Providing affordable STRs could be part of a city or county's local coastal program or could be used to mitigate for other development along the coast.

One simple solution would be to create a lottery which distribute visitor passes (ranked by number or letter) to eligible California households. These households would be allowed to book affordable STRs (and possibly other accommodations) before households with lower lottery outcomes. Eligibility could be based on income, zip code, or any other legal mechanism.

Conclusion

Short-term rentals provide a relatively simple way to increase access to the coast. Since most STRs use already existing property, they should be considered a relatively sustainable solution which can significantly increase the availability of overnight accommodation along the coast.

The expansion of STRs over the past few years has created concern in many coastal communities about neighborhood disturbances and has led many communities to enact severe restrictions on STRs. As stated in the recent *Kracke v. City of Santa Barbara* decision involving the City of Santa Barbara's ban on STRs in the Coastal zone, these restrictions effectively limit access to the coast, particularly for lower income households and underserved communities. STRs need to be properly regulated. However, as the Kracke case demonstrated, too frequently local regulations are designed specifically to restrict access to STRs and hence access to the coast. Increasing coastal access regulations should be simple and transparent to all, and registration should be simple, inexpensive, and swift. Costly inspections on already permitted residential property should be avoided. The goal of any community registration process should be to help STR owners comply with existing rules and regulations and to pay their taxes (generally transient occupancy taxes), not to exclude visitors from accessing the coast.

Glossary

Affordable Housing: In California, housing is designated as affordable based on an area's median household income. Housing is deemed affordable if costs—rent or a mortgage, including utilities—account for no more than 30% of a household's income spent. Communities in California set aside some housing for "very-low income" families, those earning less than 50% of area median income; however, the demand for this housing significantly exceeds the supply.

Business License: Many cities require business licenses to allow individuals/companies to conduct business within a jurisdiction. The cost of a license typically varies by the sales/profit of that business. Some jurisdictions require short-term rental operators, or **hosts**, to obtain a business license at an additional cost to a rental permit.

California Coastal Commission: A twelve-member governmental body established by voter initiative in 1972 and later made permanent by the 1976 California Coastal Act. It plans and regulates the use of land and water along the coastal zone and is tasked with enacting the policies of the California Coastal Act via quasi-judicial authority. The Coastal Commission provides regulatory oversight for land use and public access in the California Coastal Zone.

California Coastal Conservancy: A State agency established in 1976 to protect and preserve natural lands and waterways, improve access to the coast, and support coastal economies. A non-regulatory agency, the Conservancy supports projects and resource plans on issues pertaining to the coastline and watersheds.

Coastal Zone: The region where a body of water borders and intersects with land. Generally, the California coastal zone extends 1,000 yards from the mean high tide line of the ocean, or to the first major ridgeline in rural/recreational areas.

Gentrification: The process of investing in, repairing, or rebuilding an area that is deteriorating or blighted, which is accompanied by an influx of more affluent households. Gentrification typically changes the character of a neighborhood and displaces low-income families.

Geologic Hazard Abatement District (GHAD): GHADs allow the formation of local property tax districts for the purpose of prevention, mitigation, or control of geological hazards. These projects are funded by additional property tax levies within a GHAD. GHADs may be used to protect property against coastal erosion.

Good Neighbor Policy: Typically, part of a broader city ordinance, this policy regulates disturbances in residential neighborhoods, particularly for short-term rentals. These policies require occupants of short-term rentals to limit noise, trash, late night visitors, and other behavior that could damage the quality of life in the neighborhood. The City of Oceanside has a Good Neighbor Policy—which is included in this report—and this policy provides an example of legislation which could be used to govern conduct in short-term rentals.

Host: The owner of a residential property who rents out some or part of that space to visitors on a short-term (less than 30 day) basis.

Hotel Tax: See Transient Occupancy Tax.

Lower-Cost Coastal Accommodation (LCCA): The California Coastal Conservancy defines LCCAs as accommodations which have a daily rate that is 75% or less of the statewide average daily rate (ADR) for an overnight accommodation for a given time period. This report uses the LCCA rate for July 2019, $140.72.

Non-market good or service: Economists refer to goods, which are provided for free (often by nature), as non-market goods. Unlike market goods, which have prices and are valued accordingly by the market, non-market goods are often undervalued since their provision is free.

Maximum Capacity: The number of people who may legally inhabit a short-term rental, often defined as the number of beds + 2; although, the number may be fewer in certain cities due to local ordinances or host restrictions.

Mean High Tide Line: The average of the maximum line of intersection between the water at high tide and the land. This defines the coastal boundary and in California, the boundary of public land. According to the California Coastal Act, all land seaward of the mean high tide line is public property. Note that the mean high tide line will shift with sea level rise.

Mello-Roos: The 1982 Mello-Roos Community Facilities Act was created in the wake of Proposition 13 to provide an alternate method of financing necessary public improvements and services. It allows an authority to set up a Community Facilities District (CFD) with an associated Special Tax that can be used for necessary improvements and services that otherwise lack funding. The Special Tax is levied against each property in the CFD.

Mom and Pop: While originally a colloquial term applied to any small business, academic literature on short-term rentals often refers to hosts, who lease their own home or a second home, as "mom and pop" operators. Mom and Pop operators are particularly sensitive to restrictions on short-term rentals.

Multi-Family Dwelling: A building or structure that is designed to house several different families in separate housing units. The most common type of multi-family dwelling are apartment buildings. Multi-family dwellings can only be constructed where a certain level of density is permitted. These buildings differ from Single Family Detached Dwellings, where each structure houses one family.

Permit Fee: The cost charged by a city or county to obtain legal documentation of a short-term rental. Typically, these permit fees are non-refundable.

Property Tax: A tax assessed on real estate holdings levied by the governing authority of the jurisdiction where the land or property is located.

Proposition 13: A proposition passed by California voters in 1978 which lowered property taxes by about 57%. Tax increases are limited to no more than 2% per year. As a result of Proposition 13, many homes and businesses are assessed and pay taxes at a much lower rate than the market value of the property.

Registration: In this report, the term refers to the process by which a homeowner notifies the city or municipality that they intend to rent out their space as a short-term rental and agrees to pay the associated transient occupancy taxes.

Resilience (to Climate Change): The characteristic of any system to maintain its integrity despite shocks from extreme weather and other phenomena accelerated by climate change. Financial resilience is the ability of communities to raise funds for climate change adaptation.

Restrictive Zoning: Also referred to as Exclusionary Zoning, restrictive zoning is the use of zoning ordinances to exclude certain types of construction or land use inside a community. Many California cities have restrictive zoning laws which impede the development of multi-family and other types of affordable housing.

Sales Tax: A tax levied on sales, typically retail sales. In California, the state sales tax rate is set at 7.25%. This rate is made up of a base rate of 6% plus a local rate of 1.25% that goes directly to city and county budgets. Cities and counties can add additional sales tax levies to fund local projects, such as transportation.

Short-Term Rental (STR): A home or room available to rent for a period of less than 30 days.

Tax Increment Financing (TIF): TIF refers to additional property tax levies within a set district to raise funding (e.g., for climate change resilience). GHADs and Mello-Roos levies are two examples of TIFs.

Transient Occupancy Tax (TOT): A tax charged to travelers when they rent out a space for less than 30 days, such as a hotel room, home, hostel room, etc. TOTs are levied by cities and counties (for unincorporated areas), and revenues collected go to these jurisdictions. In California, TOT rates range from 10% to 15%.

Utility User Tax (UUT): A tax paid by the users of a public service, such as electricity, water, telephone, sewage, trash, and natural gas.

Willingness to Pay (WTP): An economic concept referring to the largest sum of money an individual will pay for a "non-market" good or service, such as a trip to the beach. WTP is often used as a measure of demand for non-market goods, such as a day at the beach.

Zoning: A legislative process which divides an urban area into different zones with specific uses, such as residential, commercial, industrial, etc. Each zone is regulated with regard to density, location, size, and type of construction permitted. In California, as in most states, local authorities largely determine zoning. Some communities' policies can lead to restrictive zoning, which often limits the development of multi-family housing or use of short-term rentals.

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September 14, 2020

Mayor Pierson and the Malibu City Council
c/o: Heather Glaser, City Clerk
23825 Stuart Ranch Road
Malibu, CA 90265

Dear Mayor Pierson and Honorable Members of the City Council:

On behalf of Airbnb, thank you for the opportunity to continue our dialogue on the City of Malibu's efforts to adopt new short-term rental (STRs) regulations. For the last 12 years, Airbnb has worked closely with cities around the world to help communities realize the benefits of STRs for travelers, hosts, and local economies.

While Malibu's significant planning efforts over the last several years is commendable, the "Hosted Ordinance" and associated Local Coastal Program ("LCP") amendment[1] before the City Council on September 14, 2020, will eliminate hundreds of accommodations in the City and make it harder for families and visitors to visit the City and access the coast. The proposed restrictions will cut-off Malibu from visitors, inhibit families from experiencing the City's coastal areas, and have significant adverse impacts on the local tourism economy.

Most concerning, as summarized below, the Proposed Ordinance violates LCP and California Coastal Act policies designed to protect and encourage visitor-serving opportunities and access to the coast.

To protect against these consequences and ensure consistency with the LCP and Coastal Act, we respectfully request the Council amend the Proposed Ordinance to include the modifications set forth in the attached Exhibit A and submit the revised ordinance to the California Coastal Commission ("Commission") for approval.[2]

The Proposed Ordinance Conflicts with the City's LCP and the California Coastal Act

As explained by the California Attorney General in a recent brief filed in the California Court of Appeal on behalf of the Commission, a new regulation for STRs that "cause[s] a sharp decline of visitor-serving accommodations in the coastal zone . . . objectively hinders visitor access to the coast" in conflict with Coastal Act policies.[3] Here, the Proposed Ordinance will not only result in a "sharp decline" in visitor-serving accommodations in the City, it will devastate the overnight lodging market in Malibu by removing an estimated tens of thousands of room nights annually.

The reduction of available STR accommodations is particularly problematic in Malibu, where traditional

[1] The proposed Hosted Ordinance and LCP amendment are collectively referred to as the "Proposed Ordinance."

[2] As recognized in the Staff Report, new restrictions placed on the offering of STRs in a jurisdiction with a certified LCP (like Malibu) must be submitted to the Commission.

[3] Amicus Curiae Brief of the California Coastal Commission at pp. 19-20, *Kracke v. City of Santa Barbara* (Ct. App., May 21, 2020, No. B300528).

overnight accommodations (i.e. motel/hotel rooms) are already extremely limited.

The City's proposed findings for the Proposed Ordinance's consistency with LCP Policy 2.34 and LCP Policy 2.36 (below) are unsubstantiated:

> *No conversion or removal of lower cost opportunities for visitor-serving accommodations results from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which can be more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to be used for short-term rentals, which is currently prohibited.*

There is simply no evidence in the record before the Council to support these findings. The City has not provided any data or analysis supporting the assertion that the Proposed Ordinance will not result in the removal lower cost opportunities for visitor-serving accommodations, nor has the City provided any data or analysis regarding the potential impacts on the going-forward pricing of hotel/motel rooms and remaining STRs. Further, the City has not provided any data, analysis, or substantial justification to show that the prohibition on non-hosted rentals is necessary Citywide, or that the remaining STRs in the City following the imposition of the prohibition on non-hosted STRs would provide sufficient room nights and the types of STRs to accommodate existing visitor demand consistent with the LCP and the Coastal Act.

In fact, Airbnb's extensive experience in markets around the world and available research provides otherwise. Given the lack of traditional overnight accommodations and the decades long reliance on STRs in Malibu for vacation rentals, removing a significant portion of STRs from the market will have potentially devastating impacts to the accessibility and affordability of the Malibu vacation rental market.

The Proposed Ordinance will eliminate non-hosted, single-family home STRs and restrict the availability of apartment and condominium STRs. Generally, "STRs provide a better value per visitor due to their increased capacity to host families and large groups and the wide range of amenities they offer visitors, such as parking, kitchen access, gathering spaces, etc. These facilities can help reduce the overall cost of a vacation."[4] We estimate that the "entire home" rentals are the most demanded STRs in Malibu for this very reason.[5]

While STRs traditionally "offer a more sustainable option that require[] fewer resources and help[] increase access with more diverse accommodation options and better value,"[6] the Proposed Ordinance will decrease both the supply and diversity of accommodation options, reducing access and potentially increasing costs. Reducing the supply and diversity of STR supply is particularly troublesome given Malibu's position in the State as a significant visitor destination.

Unlike other Coastal communities with significant supplies of traditional overnight accommodations (i.e., Santa Monica has over 3,900 hotel/motel rooms), Malibu has fewer than 120 hotel rooms. The removal of *any* STRs will have a major effect on families that rely on such accommodations to make vacations to the

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[4] "Unequal Access – Protecting Affordable Accommodations Along the California Coast," at p. 33, attached as Exhibit B.

[5] City staff previously reported that as of September 26, 2018, there were 414 properties remitting TOT for STRs, and perhaps 109 additional STRs were not registered with the City. The City reported approximately 94% of these STRs were for "entire homes." About 74% of the City's STRs were for single-family residences. Council Agenda Report, Item 4.B: Short Term Rental Ordinance at pp. 2-3, September 26, 2018 City Council Meeting

[6] Exhibit B, "Unequal Access – Protecting Affordable Accommodations Along the California Coast," at p. 33.

City feasible. As reported, "[w]ith the high cost of coastal land, it is not profitable to build low cost hotels or similar lodging. High fixed and startup costs not only restrict the construction of new hotels but also influence the price of hotel rooms at peak times. Hotels cannot increase supply, due to high fixed costs, so they increase rates."[7] A robust and diverse STR market has mitigated this effect in Malibu, but the Proposed Ordinance, which we estimate will remove tens of thousands of room nights from the Malibu vacation rental supply annually, puts this at risk.

The limited STRs that will remain available will also generally be the type of accommodations *least* attractive to families. As previously recognized by City staff:

> *Demand for lodging in the City is likely to continue to outstrip the ability of hotels/motels to supply that lodging. As a result, demand for short term rental options in the City is likely to continue to grow, especially because many families prefer to rent a home rather than rooms in a hotel.*[8]

By significantly reducing the availability of non-hosted, single-family residence STR options in the City, the Proposed Ordinance will force families wishing to visit Malibu to either rent multiple hotel/motel rooms at great expense (if such rooms are even available). Families that cannot afford multiple hotel/motel rooms or may feel uncomfortable staying with a host will face a barrier to staying in Malibu in the future. Those families that do feel comfortable staying in a hosted STR will likely face higher prices for their rental than they would today given the anticipated substantial reduction in the supply of existing room nights under the Proposed Ordinance's prohibitions.[9]

Put simply, the Proposed Ordinance's regulation of STRs in Malibu will severely reduce the availability of diverse overnight accommodations and limit coastal access. Accordingly, the Proposed Ordinance objectively fails both to (1) protect "[c]oastal recreational and visitor serving uses and opportunities" and (2) protect "to the maximum feasible extent" "existing lower cost visitor-serving and recreation facilities, including overnight accommodations ….", in violation of both LCP Policy 2.34 and LCP Policy 2.36.[10]

Further, the City's LCP policies not only require the protection of existing visitor-serving facilities, they also direct the City to encourage new facilities. STRs "offer a more sustainable option that require[] fewer resources and help[] increase access with more diverse accommodation options and better value."[11] By imposing restrictions on the offering of single-family residences as STRs, and restricting multi-family buildings to offering just two units as STRs, the Proposed Ordinance creates a strong disincentive for the establishment of any new STRs in the City. This is very problematic for future coastal access in a community where no new hotels or motels have been erected in over thirty years.[12]

Suggested Amendments to the Proposed Ordinance to Encourage Access to Malibu

Airbnb has long encouraged a balanced approach to the regulation of STRs. We also believe that with the

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[7] "Unequal Access – Protecting Affordable Accommodations Along the California Coast," at p. 35 (citing Zervas 2016, 22).

[8] See Commission Agenda Report, Item 5.C: Short Term Rental Ordinance, November 20, 2017 Planning Commission Meeting.

[9] For additional details on the potential impacts on the cost of overnight coastal accommodations from the removal of STRs, please see the attached report titled "Unequal Access – Protecting Affordable Accommodations Along the California Coast" (Exhibit B).

[10] Malibu LCP, Land Use Plan, Ch. 2, § C, subds. 2.34 & 2.36.

[11] "Unequal Access – Protecting Affordable Accommodations Along the California Coast," at p. 33.

[12] While we understand certain hotels/motels in Malibu have been recently remodeled, the opening of the Malibu Beach Inn in 1989 was the last "new" hotel/motel developed in the City.

modifications proposed below, the Proposed Ordinance would be consistent with LCP and Coastal Act policies, will support the democratization of tourism in Malibu, and ensure that visitors and families will continue to have the opportunity to experience the unique beauty of the Malibu coast for decades to come.

Historical Use Permit

To ensure consistency with LCP and Coastal Act policies calling for the protection of existing visitor-serving facilities, the Council should amend the Proposed Ordinance to create a permit category that allows existing, legally operating STRs to continue offering non-hosted STRs in both primary and non-primary single-family residences. By allowing for the continued access to existing, legally operating STRs, the City will maintain the room nights needed to meet demand and simultaneously ensure the availability of the STR types most attractive to families. This approach will also mitigate against the risk of increased prices for the remaining STRs and hotel/motel rooms following the adoption of the Proposed Ordinance.[13]

> *Section 17.55.040(C): Historical Use Permit. An owner of a historical short-term rental may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. Notwithstanding anything in Section 17.55 to the contrary, a historical use permit is valid even if the historical short-term rental is not the owner's primary residence. Multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit.*

Tourist Core Permit

To ensure consistency with LCP and Coastal Act policies encouraging new visitor-serving facilities, the Council should further amend the Proposed Ordinance to include a permit category for STRs within an area of Malibu that offers proximity to both Coastal resources (like beaches) and the heart of the City's commercial and tourist core. This proposed "Tourist Core" overlay would extend on the seaward side of Pacific Coast Highway between the Malibu Pier to the west and Las Flores Canyon Road to the east. A "Tourist Core Permit" would allow non-hosted STRs in primary and non-primary residences, and the rental of any number of units in multi-family buildings. This approach would encourage new visitor-serving accommodations in the City as required by the applicable LCP and Coastal Act policies and consistent with past-Commission precedent.[14]

> *Section 17.55.040(D): Tourist Core Permit. An owner, including the owner of a multifamily residential building, may obtain this permit, which allows short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid, if the permitted location is located on the seaward side of Pacific Coast Highway between the Malibu Pier to the west and Las Flores Canyon Road to the east. Notwithstanding anything in Section 17.55 to the contrary, a tourist core permit is valid even if the property is not the owner's primary residence.*

Definition of Hosting Platform

Airbnb has been collecting and remitting transient occupancy taxes on behalf of owners in Malibu since

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[13] The Commission approved a similar approach in Santa Cruz. There, the Commission approved as submitted an LCP amendment that permitted existing, TOT-paying STRs to continue to operate, but set new limits on future STR permit applications.

[14] The Commission recently advocated in a court filing for the consideration of location when regulating STRs stating: "[Del Mar's] proposed amendment makes no distinction between inland parts of the City and the shoreline areas, and the City's blanket restrictions are overly broad and restrictive. . . . Residences in prime visitor-serving, beach-adjacent areas are not given any priority for use as an STR, which hinders the public's ability to access and recreate in these near shore areas." California Coastal Commission Brief in Opposition to Writ at p. 18, *City of Del Mar v. California Coastal Commission* (Super. Ct. San Diego County, Nov. 15, 2019, No. 37-2018-00039254).

2015 through a voluntary collection agreement. To ensure that all hosting platforms are obligated to collect and remit transient occupancy taxes on behalf of short-term rental owners, we suggest making minor edits to the definition of "Hosting Platform" in Section 2 so that requirement captures a broader segment of hosting platforms, thereby ensuring greater compliance and greater revenue for the city. As written now, platforms could argue that they do not have to comply with the provision at all.

> *Section 2: "Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by ~~collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting~~ facilitating a booking transaction using any medium of facilitation.*

Moreover, traditional hospitality operators like hotels, and professional management companies that operate short-term rentals often already have systems in place to collect and remit local taxes. We have found that these professional hosts often prefer to remit their own taxes, and as such, we ask that the language be amended so that they can operate in accordance with existing business practices. The language we suggest below ensures that the City will receive TOT for all applicable booking transactions, from *either* the hosting platform or these more traditional hospitality operators.

> *Section 17.55.090(A): Hosting platforms shall be responsible for collecting all applicable TOT and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section, or the hosting platform and the owner enter into an agreement regarding the fulfillment of this subsection (A), the owner shall remain responsible for collection and remittance of the TOT the Hosting platform failed to collect and/or remit to the City.*

Hosting Platform Responsibilities

Lastly, we urge the City to ensure that its hosting platform responsibilities section is in accordance with prior draft Ordinances and Ordinance No. 468 ("Enforcement Ordinance), which all provide that a hosting platform may otherwise comply subject to a compliance agreement with the City. This approach allows for the City to negotiate a compliance framework that is more transparent and proactive with regards to enforcement compared to the existing hosting platform booking transaction prohibition set forth in Section 17.55.090(C).

> *Section 17.55.090(E): A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C), and (D) above, shall be presumed to be in compliance with this Chapter and shall not be found in violation of Section 17.55.080. If technical issues pose a substantial obstacle to compliance with this Section, a hosting platform may also satisfy these obligations pursuant to a compliance agreement with the City that prevents booking transactions for unpermitted short-term rentals, collects all transient occupancy tax due, and complies with the disclosure requirements of this Section.*

Conclusion

Again, we commend the City's efforts to find an appropriate balance in the Proposed Ordinance. However, without the ability for existing primary and non-primary single-family residences to continue to offer non-hosted rentals, and without encouraging new STRs in the area of the City with close proximity to both the City's beaches and its commercial and tourist core, the proposal remains inconsistent with LCP and Coastal Act policies, and will have significant adverse impacts on future access to the Malibu coast. To address these concerns and the others concerns outlined above, we encourage the Council to make the language changes to the Proposed Ordinance we have proposed in the attached Exhibit A and to

seek the Commission's approval of the same through an LCP amendment.

Sincerely,



John Choi
Public Policy Manager, Airbnb

EXHIBIT B –PROPOSED MODIFICATIONS TO ORDINANCE NO. 472

ORDINANCE NO. 472

AN ORDINANCE OF THE CITY OF MALIBU AMENDING THE LOCAL COASTAL PROGRAM (LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003) AND TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE (ZONING TEXT AMENDMENT NO. 19-005) REGULATING THE RENTAL OF RESIDENTIAL UNITS FOR 30 DAYS OR LESS (SHORT-TERM RENTALS) INCLUDING BUT NOT LIMITED TO REQUIRING THE PRESENCE OF AN ONSITE HOST DURING SHORT-TERM RENTAL, AND OTHER RESTRICTIONS, AND CLARIFYING PERMITTED USES RELATED TO SHORT-TERM RENTAL CITYWIDE, AMENDING CHAPTER 15.44 PERTAINING TO OPERATING PERMITS FOR ONSITE WASTEWATER TREATMENT SYSTEMS AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby ordain 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 platforms that consolidate and facilitate the short-term rental of property, the City has seen increased violations of its prohibition against illegal hotel, motel, and bed and breakfast inn 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 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

J. The September 11, 2018 City Council Regular Meeting was cancelled.

K. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

L. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

M. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

N. On June 24, 2019, the City Council authorized the City Manager to execute the Professional Services Agreement with Raftelis Financial Consultants, Inc. for financial analysis services to examine the short- and long-term financial implications of a potential ban on short-term rentals.

O. On October 3, 2019, the City Council Administration and Finance Subcommittee, received a report the short and long-term financial implications of a potential ban on STRs and recommended that requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

P. On October 28, 2019, the City Council received financial analysis on the implications and potential impacts of a ban on short-term rentals. Council also discussed the potential options and procedures for banning short-term rentals, whether an amendment to the Local Coastal Program (LCP) is necessary for a short-term rental ban, and approaches other coastal cities have taken to legislate short-term rentals and associated litigation in those cities. Council directed staff to initiate a ZTA and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals to include provisions similar to Santa Monica's home-sharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance (ZTA No. 17-002) to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

Q. On December 3, 2019, the City Council held a duly noticed public hearing on ZTA No. 17-002. The City Council did not move forward with ZTA No. 17-002 at that time but did adopt Resolution No. 19-53 initiating a new LCPA No. 19-003 and ZTA No. 19-005 to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica's ordinance requires the presence of an onsite host within the rented dwelling unit, known as a "home-share" or a "hosted" rental. The City Council's direction was to require a "host" to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The City Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included.

R. Beginning in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings began to be held virtually in April. Legislative matter drawing extensive public interest were temporarily postponed. On June 8, 2020, the Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission for a virtual public hearing.

S. On June 22, 2020, in response to immediate resident concerns about neighborhood impacts from short-term rentals, the City Council directed staff to bring back the ordinance presented to the City Council on December 3, 2019 (ZTA No. 17-002) establishing provisions to regulate short-term rental property.

T. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record pertaining to hosted short-term rental regulations. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City Council adopt ZTA No. 19-005, with modifications, including that short-term rental of guest houses not be allowed, and made two

additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

U. On August 10, 2020, the City Council held a duly noticed public hearing on ZTA No. 17-002 (Ordinance No. 468), reviewed and considered the staff report, written reports, public testimony, and other information in the record. City Council continued Ordinance No. 468 to the September 14, 2020 Regular meeting in order to consider it concurrently with the hosted short-term rental amendments (LCPA No. 19-003 and ZTA No. 19-005) and with a revised version of Ordinance No. 468. Council directed staff to modify Ordinance No. 468 in order to remove the primary resident requirement and certain other requirements to focus on providing enforcement tools against nuisance properties while LCPA No. 19-003 is being processed.

On September 14, 2020, the City Council held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the staff report, written reports, public testimony, and other information in the entire record of the City's consideration of short-term rental regulations.

SECTION 2. Local Coastal Program Amendments.

The LCP Local Implementation Plan (LIP) is amended as follows:

A. LIP Section 2.1 is hereby amended by adding the following definitions, inserted in alphabetical order:

> DESIGNATED OPERATOR - pertaining to the short-term rental of residential property, any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.
>
> DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:
>
> > A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
> > B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and
> > C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

GUEST - pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

HISTORICAL SHORT-TERM RENTAL - a property that (1) was offered as a short-term rental prior to the certification of LCPA No. 19-003 by the California Coastal Commission; (2) generated transient occupancy taxes that were transmitted to the City in Fiscal Year 2019-2020; (3) did not have any outstanding transient occupancy taxes owed to the City at the time of its application for a short-term rental permit; (4) had not received two or more citations for violation of the City's noise ordinance within the 12 consecutive months preceding its application for a short-term rental permit.

HOSTED SHORT-TERM RENTAL - a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE - pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

NON-HOSTED SHORT-TERM RENTAL - a short-term rental for which the owner or designated operator does not live onsite during the guests' stay.

OWNER - pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL - of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

TOURIST CORE – pertaining to the short-term rental of residential property, means the area on the seaward side of Pacific Coast Highway between the Malibu Pier to the west and Las Flores Canyon Road to the east.

B. LIP Section 3.3(Q)(2)(a) Planned Development (PD) Zone is amended to add subsection (v) to section (a):

a. Lot Nos. 1—5

i. One single-family residence per lot.
ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
iii. Domestic animals, kept as pets.
iv. Landscaping.
v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

C. LIP Section 13.31 is added to LIP Chapter 13 (Coastal Development Permits) to read as follows:

13.31 Short-term Rental of Residential Property

A. No coastal development permit is required nor is the City required to maintain a record of coastal development permit exemption pursuant to LIP Section 13.4.10 for short-term rental of residential property as defined in Section 2.1 of this LIP provided that such use meets all of the following criteria:

1. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.
2. The short-term rental use is conducted in a dwelling unit that was lawfully established as described in LIP Section 13.3(F).
3. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

D. LIP Table B - Permitted Uses (Key to Table) is amended to read as follows:

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	**Permitted use**
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**
CUP	**Requires the approval of a Conditional Use Permit**
A	**Permitted only as an accessory use to an otherwise permitted use**
LFDC	**Requires the approval of a Large Family Day Care permit**

WTF	**Requires the approval of a Wireless Telecommunications Facility**
STR	**Use requires valid short-term rental permit approved by the City**
•	**Not permitted (Prohibited)**

E. LIP Table B - Permitted Uses is amended by inserting the following new use category to the end of the Residential section of the table after the "Home Occupation" category and adding two new footnotes 21 and 22:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Short-term rental	STR[21]	STR[21]	STR[22]	STR[22]	STR[21]	•	•	•	•	•	•	•	•	•	•	•

21. Hosted short-term rental only in RR, SF and MHR zones; notwithstanding the foregoing, historical short-term rentals and properties located in the tourist core may offer non-hosted short-term rental
22. Maximum of two dwelling units per parcel for MF and MFBF zones; notwithstanding the foregoing, the limits on dwelling units shall not apply to parcels in the tourist core

SECTION 3. SECTION 3. LCP Amendment Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed LCPA No. 19-003 meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act as follows:

A. The amendment maintains standards to require that uses and development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will assure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

B. The amendment will be consistent with the following policies:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

No conversion or removal of lower cost opportunities for visitor-serving accommodations results from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for the continued offering of

existing non-hosted short term rentals, existing and new hosted short-term rentals which can be more economical than whole house rentals since the property owner or long-term tenant is also on the site, and new non-hosted short term rentals in a central area of the City with proximity to primary visitor-serving and recreational facilities. In addition, the amendments allow for a limited number of multifamily units to be used for short-term rentals, which is currently prohibited.

2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for the continued offering of existing non-hosted short term rentals, existing and new hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site, and new non-hosted short term rentals in a central area of the City with proximity to primary visitor-serving and recreational facilities. ~~.~~ In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

SECTION 4. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is amended as follows:

A. MMC Section 17.02.060 (Definitions) is hereby amended to add the following definitions, inserted in alphabetical order:

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Designated operator" means any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Guest House" means detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. Guest houses may be used for short-term rentals pursuant to a valid short-term rental permit issued by the City.

"Historical short-term rental" means a property that (1) was offered as a short-term rental prior to the certification of LCPA No. 19-003 by the California Coastal Commission; (2) generated transient occupancy taxes that were transmitted to the City in Fiscal Year 2019-2020; (3) did not have any outstanding transient occupancy taxes owed to the City at the time of its application for a short-term rental permit; and (4) had not received two or more citations for violation of the City's noise ordinance within the 12 consecutive months preceding its application for a short-term rental permit.

"Hosted short-term rental" means a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with Section 17.55.040.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by ~~collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting~~ facilitating a booking transaction using any medium of facilitation.

"Lives onsite" means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit. This definition is applicable to Chapter 17.55 only.

"Non-hosted short term rental" means a short-term rental for which the owner or designated operator does not live onsite during the guests' stay.

"Owner" means any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner. This definition is applicable to Chapter 17.55 only.

"Primary Residence" means the usual place of return for housing of an owner as documented to the satisfaction of the City Manager by an active voter registration, a valid driver's license or other government issued identification card with the address of the property. A person can only have one primary residence. This definition is applicable to Chapter 17.55 only.

"Short-term rental" of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

"Tourist Core" means the area on the seaward side of Pacific Coast Highway between the Malibu Pier to the west and Las Flores Canyon Road to the east.

B. MMC Section 17.08.020 (Permitted Uses, Rural Residential) is amended to add subsection L:

L. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City. Non-hosted short-term rental use only if pursuant to a valid historical use permit or tourist core permit.

C. MMC Section 17.10.020 (Permitted Uses, Single Family) is amended to add subsection I:

I. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City. Non-hosted short-term rental use only if pursuant to a valid historical use permit or tourist core permit.

D. MMC Section 17.12.020 (Permitted Uses, Multiple Family) is amended to add subsection J:

J. Short-term rental use of no more than two units per parcel pursuant to a valid short-term rental permit issued by the City. Short-term rental use of more than two units per parcel only if pursuant to a valid tourist core permit.

E. MMC Section 17.14.020 (Permitted Uses, Multifamily Beachfront) is amended to add subsection I:

I. Short-term rental use of no more than two units per parcel pursuant to a valid short-term rental permit issued by the City. Short-term rental use of more than two units per parcel only if pursuant to a valid tourist core permit.

F. MMC Section 17.16.020 (Permitted Uses, Mobile Home) is amended to add subsection C:

C. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City. Non-hosted short-term rental use only if pursuant to a valid historical use permit or tourist core permit.

G. MMC Chapter 17.55 (Short-term Rental of Property) is hereby added to read as follows:

Section 17.55.010 Short-Term Rental of Property

A. ~~Hosted s~~Short-term rental of single-family residential property, and the short-term rental of ~~up to two~~ dwelling units on a multifamily housing parcel, is allowed as specified in Section 17.55.040 if conducted in compliance with this Chapter 17.55 and the owner complies with each of the following requirements:

1. Obtains and maintains at all times a Short-Term Rental Permit issued pursuant to this Chapter.

2. Operates the short-term rental activity in compliance with all permit conditions for short-term rental as set forth in Section 17.55.020 and any regulations promulgated pursuant to this Chapter.

3. Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 3.24 of this Code.

4. Takes responsibility for and actively prevents any nuisance activities that may take place as a result of short-term rental activities.

5. Is available, or a designated operator is available, 24 hours a day, 7 days a week, at a phone number provided to both the City and any guest staying at the property to immediately answer a call from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property. No person may serve as a designated operator for more than one hosted short-term rental concurrently.

6. Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.

7. Limits the occupancy of the short-term rental (including the host, guests, and any other natural persons) to two people more than twice the number of bedrooms listed on City or County records as determined by the Planning

Director up to a maximum of 14 people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.

8. Maintains liability insurance to cover the short-term rental of property with minimum limits of not less than $500,000 or conducts each short-term rental transaction through a hosting platform that provides equal or greater coverage.

9. Complies with Section 17.55.080 governing advertisements of short-term rentals.

10. Provides all guests with the Short-term Rental Code of Conduct, which shall be developed by the City Manager, and posts the same on the inside of the main entrance door to the dwelling unit rented, or on the wall adjacent thereto.

11. Provides 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 her/his designee for purposes of inspection or audit.

12. Complies with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.

13. Maintains a valid Onsite Wastewater Treatment System (OWTS) operating permit pursuant to Chapter 15.44 or has entered a compliance agreement with the City excusing such compliance and is in full compliance with the compliance agreement and not in default or breach.

Section 17.55.020 Short-Term Rental Permit Required

A. No person shall offer, facilitate an offer, or allow the short-term rental of property in any location not specifically identified and approved on a valid short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.

B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit. Each permit may include up to two listings, one per dwelling unit.

C. Application Required. To obtain a short-term rental permit an owner shall submit an application on a form to be provided by the City and signed by the owner under penalty of perjury.

D. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:

1. Address of the proposed short-term rental

2. Type of dwelling unit

3. Contact information for the owner of the property

4. Contact information for the designated operator, if a designated operator will live onsite for the hosted short-term rental

5. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.010(A)(14) paired with an attestation that the owner is in full compliance with the compliance agreement and not in default or breach

6. Attestation and agreement to comply with the requirements of this Chapter

7. Proof that the owner is in compliance with Chapter 3.24 of this code

8. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property

9. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that owner has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the owner maintains a short-term rental permit for the property.

10. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy

11. Attestation of compliance with the required insurance coverage

12. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis

13. The type of short-term rental permit sought: hosted, ~~or~~ multifamily, historical use, or tourist core.

14. If seeking a hosted short-term rental permit, proof of primary residency and attestation that the location is the owner's primary residence, meaning that the owner lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and

will remain the owner's primary residence for the duration of the permit shall suffice

15. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire parcel, and an attestation that all dwelling units (except for two) are rented on a long term-basis per Section 17.55.040(B). The permit holder shall maintain copies of the leases for all tenants documenting compliance at all times with Section 17.55.040(B) for a period of three years following the expiration of the short-term rental permit.

16. If seeking a historical use permit, evidence that the property (1) was offered as a short-term rental prior to the certification of LCPA No. 19-003 by the California Coastal Commission; (2) generated transient occupancy taxes that were transmitted to the City in Fiscal Year 2019-2020; (3) does not have any outstanding transient occupancy taxes owed to the City; and (4) has not received two or more citations for violation of the City's noise ordinance within the last 12 consecutive months.

17. If seeking a tourist core permit, evidence that the property is within the tourist core.

E. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.

F. Notice of Approval. Upon approval, the Planning Director shall provide, at the owner's expense, the contact information for the owner or designated operator identified in 17.55.010(A)(5) to all dwelling units within 500 feet of the short-term rental unit's parcel boundary.

G. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

H. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes, or immediately for any change in the owner or designated operator's contact information. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection (D) of this Section shall constitute a material change. A permittee may not cure a violation of this Chapter by seeking to amend a short-term rental permit after a violation occurs; short-term rental of a property may only be conducted as specifically authorized by an active short-term rental permit.

I. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.

J. No Transfer or Assignment. A short-term rental permit may not be assigned or transferred to another person.

K. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.

L. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

M. Possession of a STR permit does not excuse any other permitting requirements of this code including but not limited to TOT and special event permit requirements.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:

1. The owner has not paid all TOT due or is not in compliance with Chapter 3.24 of this code.

2. The property has outstanding code enforcement violations.

3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.

4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.

5. The owner has failed to amend an application as required by Section 17.55.020(H).

6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter.

7. The property has received two or more citations for violation of the City's noise ordinance within a period of 12 consecutive months.

8. Failure to comply with Section 17.55.010(A)(13)

9. A holder of a hHosted Sshort-term rRental pPermit receives three or more citations for violation of any combination of the following requirements within a period of 12 consecutive months, or a holder of a historical use

permit, tourist core permit, or m~~M~~ultifamily s~~S~~hort-term r~~R~~ental p~~P~~ermit receives two or more citations for violation of any combination of the following requirements within a period of 12 consecutive months:

i. The requirements of Sections 17.55.010(A)(4), (7), (10), (11), 17.55.040(A), and Section 17.55.080.

17.55.040 Types of Short-term Rental Permits

Only a natural person, which must be the owner or the owner's agent, ~~-~~may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Hosted Short-term Rental Permit. A primary resident owner may obtain this type of permit which allows hosted short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. The owner, or designated operator, must live onsite during any period of rental, and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner or designated operator must be located onsite, and present immediately upon request, during the hours of 8 p.m. to 6 a.m. during any period that the unit is rented. Multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that a primary resident owner of a condominium unit may obtain this type of permit for the unit where he or she has established his or her primary residence.

B. Multifamily Short-term Rental Permit. Owners of entire parcels that have multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two units on the parcel so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

C. Historical Use Permit. An owner of a historical short-term rental may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. Notwithstanding anything in Section 17.55 to the contrary, a historical use permit is valid even if the historical short-term rental is not the owner's primary residence. Multifamily residential buildings containing three (3) or more dwelling units (including, but not

limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit.

~~B.~~D. Tourist Core Permit. An owner, including the owner of a multifamily residential building, may obtain this permit, which allows short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid, if the permitted location is located on the seaward side of Pacific Coast Highway between the Malibu Pier to the west and Las Flores Canyon Road to the east. Notwithstanding anything in Section 17.55 to the contrary, a tourist core permit is valid even if the property is not the owner's primary residence.

17.55.050 Renewal of Short-term Rental Permit

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.

B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.

C. No permit shall be renewed unless all city fees and taxes owed by the owner are paid in full, including the renewal fee.

17.55.060 Effect of Denial or Revocation of Short-term Rental Permit

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that owner and location for a 12 month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the owner knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(9), or (3) two or more citations for violation of the City's noise ordinance in a period of 12 consecutive months, a new application shall not be approved for a period of at least 12 months from the date of the last violation or short-term rental of the property, whichever is later.

B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of 12 months from the date of revocation.

C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other penalty) result in the property and owner being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an

additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.

D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.070 Appeals

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.

B. The completed appeal form must be delivered to the City Clerk within 30 calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.

C. Failure to deliver the completed appeal form as required by section (B) above will result in the denial or revocation being deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.

E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 Advertisement and Facilitation of Short-term Rentals

A. The owner shall include and prominently post the following information in any advertisement for short-term rental:

1. The short-term rental permit number issued by the City;

2. That the owner lives onsite and the owner or designated operator will live onsite throughout the visitor’s stay unless the advertisement is for a permitted multifamily short-term rental;

3. The permitted occupancy of the short-term rental as specified in the short-term rental permit application; and

4. Any other information required by regulations promulgated pursuant to this Chapter.

B. No advertisements regarding the availability of a dwelling unit for short-term rental shall be posted in or on any exterior area of the dwelling unit, any exterior area of

any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.

C. The address of the property shall be prominently displayed.

D. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental.

E. Any offer or advertisement for the short-term rental of property in the City that does not contain a valid short-term rental permit number, or which the City identifies as illegal to the person or entity advertising or offering the rental, shall be immediately removed from any location it is posted, whether online or otherwise.

17.55.090 Hosting Platform Responsibilities

A. Hosting platforms shall be responsible for collecting all applicable TOT and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section, or the hosting platform and the owner enter into an agreement regarding the fulfillment of this subsection (A), the owner shall remain responsible for collection and remittance of the TOT the Hosting platform failed to collect and/or remit to the City.

B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.

C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.

D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.

E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C), and (D) above, shall be presumed to be in compliance with this Chapter and shall not be found in violation of Section 17.55.080. If technical issues pose a substantial obstacle to compliance with this Section, a hosting platform may also satisfy these obligations pursuant to a compliance agreement with the City that prevents booking transactions for

unpermitted short-term rentals, collects all transient occupancy tax due, and complies with the disclosure requirements of this Section.

F. The provisions of this Section 17.55.090 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.100 Regulations

The City Manager or designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.110 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 Section 17.55.020(A) by an owner shall be subject to a fine of $1000 per day or violation, or twice the short-term rental's advertised daily rental rate per day or violation, whichever is higher, and for all other violations an owner shall be subject to a fine of $500 per day or violation, or the short-term rental's advertised daily rental rate per day or violation, whichever is higher.

B. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code or local coastal program committed by guests at the property.

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.

H. MMC Title 17 - Appendix 1 (Permitted Uses Table) - Key to Table is hereby amended to read as follows:

KEY TO TABLE (In addition to a coastal development permit where applicable, MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	Permitted use
MCUP	Requires the approval of a minor Conditional Use Permit by the Director
CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility

STR	Use requires valid short-term rental permit approved by the City
•	Not permitted (Prohibited)

I. MMC Title 17 - Appendix 1 - (Permitted Uses Table) is amended by inserting the following new use category after the "Home Occupations" use category in the table and two new footnotes 32 and 33:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Short-term rental	STR[32]	STR[32]	STR[33]	STR[33]	STR[32]	•	•	•	•	•	•	•	•	•	•	•

32. Hosted short-term rental only in RR, SF and MHR zones; notwithstanding the foregoing, historical short-term rentals and properties located in the tourist core may offer non-hosted short-term rental
33. Maximum of two dwelling units per parcel for MF and MFBF zones; notwithstanding the foregoing, the limits on dwelling units shall not apply in the tourist core

SECTION 6. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be made prior to or concurrent with the application for a short-term rental permit. An operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 7. Zoning Text Amendment Findings.

The City Council hereby finds that ZTA No. 19-005 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], protect rural residential character [General Plan LU Policy 1.1.4], protect and preserve the unique character of the City's distinct neighborhoods, and conserve affordable housing in the Coastal Zone [General Plan Housing Policy 1.4].

ZTA No. 19-005 will support these policies by introducing regulations to reduce the impact of short-term rentals on neighbors and the community.

SECTION 8. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters. Further, the Ordinance is exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines which states that permitting and licensing of existing private structures involving negligible or no expansion of existing or former use in that the proposed short-term rental permitting program will establish rules and regulations that do not expand existing residential uses. Additionally, the Ordinance is exempt pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) in that the regulatory program established will facilitate enforcement actions, such as permit revocation, for nuisance short-term rental properties. Finally, in accordance with the CEQA, Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This Ordinance is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect.

SECTION 9. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 10. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit the LCP amendments contained in Section 2 of this Ordinance to the California Coastal Commission per Title 14, California Code of Regulations Section 13554.5(a).

SECTION 11. Effectiveness.

The LCP amendment and corollary ZTA approved in this Ordinance shall become effective only upon certification by the California Coastal Commission of this amendment to the LCP.

SECTION 12. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this_____ day of _____, 2020.

MIKKE PIERSON, Mayor

ATTEST:

HEATHER GLASER, City Clerk

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

CHRISTI HOGIN, City Attorney

Heather Glaser

Subject: Re: Pls do not require an on-site host for residents using their home for STR for only 4-8 weeks per year

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From: Jo Drummond [redacted]
Date: September 14, 2020 at 8:36:51 AM PDT
To: City Council <citycouncil@malibucity.org>, Karen Farrer <kfarrer@malibucity.org>, Mikke Pierson <mpierson@malibucity.org>, Jefferson Wagner <jwagner@malibucity.org>, Skylar Peak <speak@malibucity.org>, Rick Mullen <rmullen@malibucity.org>
Cc: Colin Drummond [redacted]
Subject: Re: Pls do not require an on-site host for residents using their home for STR for only 4-8 weeks per year

Dear Honorable Mayor Pierson and City Council,

We hope City Council can introduce common sense regulation with enforcement but also reasonably accommodate Malibu homeowners who supplement their incomes for a short period of time during the holiday seasons, as opposed to many that do so full time.

Having an on-site host for people who rent out their home only 4-8 weeks per year (one week minimum at a time) will essentially end this type of rental in our neighborhoods and the quiet, kind guests that come and stay with us that are just like our own family, that bother no one and should be welcomed into the community. When we go out of town we prefer our home to be accommodated rather than empty.

An on-site host requirement will also stop the much needed TOT that provides revenue for our already severely cut city budget. We fill a need in the city and also meet our own financial requirements for college and property taxes with short term rental of our primary residence. If you are comparing Santa Monica, we in Malibu are filling an access need as there are nowhere near as many hotel rooms available or places to stay. Perhaps a separate permit can be obtained for primary residence homeowners like ourselves that does not require an on-site host, but a 24/7 emergency call response from a neighbor on the street with a key.

My husband and our family of 5 go away for several weeks in the summer as well as the winter for two weeks, and when we do we rent out our home to help defray property taxes and college tuition (we have 3 kids that need college paid for - that's hundreds of thousands of dollars as you know). We rent it out for a minimum of one week often renting regularly for 12-15 days to similar families such as ours needing a getaway. They are always quiet, respectful and enjoy the home. They use the entire house so there would be no place for an on site host to be present. Instead, could one of our neighbors be available?

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/2020 Agenda File

The better option to the on-site host requirement would be to limit the number of days allowed during the year, i.e. 60 days max. **As one resident put in a letter to the editor in the Aug 27 Malibu Times, "the problem isn't when a Malibu resident wants to take in vacationers to make ends meet. The problem is with people who buy a house in Malibu that they don't use as their residence, but purely as an STR business. They are stealing a piece of our neighborhoods for their profit, putting in a de facto hotel."**

Also it infringes on our privacy to notify neighbors of the STR permit we hold so that should be removed from the ordinance.

The ordinance should make reasonable accommodation for two plainly different scenarios such as part time renters as opposed to full time renters.

We would also hope they do not raise the already high TOT 12% tax to 15%. This is a fair chunk out of the earnings that again go towards our property taxes, etc.

Thank you for your consideration in this matter and looking out for the little guys in Malibu.

Sincerely,

Jo Drummond

Kelsey Pettijohn

From: joey goodman [redacted]
Sent: Friday, August 21, 2020 10:28 AM
To: Douglas Cleavenger; Rick Mullen
Cc: Karen Farrer; Reva Feldman; Mikke Pierson
Subject: 3833 Paseo Hidalgo
Attachments: 908efa18-df15-42a6-996e-28e1cb671d60.mp4

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Just a sample of this ongoing unacceptable behavior

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Interim STR ordinance

joey goodman [redacted]

Mon 9/14/2020 4:10 PM

To: City Council <citycouncil@malibucity.org>

Hello 👋 to all of you

Thank you for listening to my requests for help?
I believe I have presented a cogent and rational documented argument.

I hope it has convinced the Council that it is imperative to adopt ZTA.

My La Costa neighborhood needs the City of Malibu to create significant enforcement provisions in order to halt the destruction of it's neighborhood quality of life.

We have been left with no recourse for too long.

I plan to read a letter I received from the attorney's for Madison Group.
The owners of 3833 Paseo Hidalgo

With gratitude

Joey Goodman

Sent from my iPhone

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Heather Glaser

Subject: A letter from the Residence 20446 PCH . / AIRBNB HOST @ Malibu Fwd: Malibu to vote on hosting laws -



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From: Jackson Kuo [redacted]
Date: September 14, 2020 at 1:15:44 PM PDT
Subject: A letter from the Residence 20446 PCH . / AIRBNB HOST @ Malibu Fwd: Malibu to vote on hosting laws -

Dear Council members

My name is Jackson Kuo , I am an AIRBNB host on PCH ([redacted]) and I have been hosting for the last two years with over 200+ guests since day one.

I know that this message might be too late and that I probably should haven spoken out earlier, but I I want to share my experience over the last two years of hosting
and hopefully can let you all understand what it meant to be a host , at least for my personal experience.

We have bought the house in 2015 and we have then decided to share the property through AIRBNB because we feel that it is such a beautiful location and city,
everytime we stayed there we felt relaxed and also have a wonderful time with the family.

But at the same time , we have decided that we are NOT going to charge a premium for the AIRBNB, we wanted to keep the house affordable to family and avg families.

and since we have had a great review and response from the AIRBNB platform. We do make just enough money to cover the expenses, however what really kept us going
was the fact that we get all these responses from the guest that how happy they were they were have the access to the property and that they all had a great time with
their family , to us that is priceless ,and we know that we had to pay a high tax to the MALIBU city so instead of taping that to our guest , we reduced our price to help cover
the extra expenses so our guest can still make it to the trip.

We felt by doing that , we can attract more people to MALIBU and hence help the local MALIBU business as well.

We sincerely feel that a city such as Malibu, should allow host such ourselves to promote MALIBU and to have proper access to guest who wants to travel into the city.

It would be a shame that if CITY OF MALIBU puts all these restrictions to the hosts, I really felt it will be a great shame that only 1/2 year of the time, there will be
guests that will travel into the city to stay , most of our guest stays for the week or at least 3 + days , I just hate to see that their chance of spending time in such a quality

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/2020 Agenda File

city is taken away from them. Not to mention the impact of the housing price across the board. this decision , will in long term in my humble opinion hurt the city's
fiscal performance.

Again I know this is not a formal letter, but I want MALIBU to understand that a lot of us , we are not here just for the money. we are here and as a host because we
want to do more for the community , we want to make MALIBU a place of joy that we can share with people around the world.

It is a shame if we lock up ourselves up to the rest of the world, and thinking that this will benefit the city. I sincerely disagree with the bill. I think yes we can make the
rules better so people have to comply , but by taking away the opportunity for people and host to have better use with their property especially we have a ocean front property .
I do NOT feel this is fair.

Again I hope the city will make the best decision for all the residence, but by punishing the host , I DO NOT think this bill services its people well.

Thank you for your time.

Jackson Kuo
[redacted]

[redacted]

Please consider your environmental responsibility before printing this e-mail"

Disclaimer:
This email and attachment(s) contains information that is privileged and confidential in nature and is intended strictly for the individual(s) that it is addressed to. Any dissemination, distribution or copying of this electronic communication is strictly prohibited. If you have received this communication in error, please notify our office at 866-PICK-JBC and delete the contents immediately.

Begin forwarded message:

From: LAMobilization <lamobilization@airbnb.com>
Subject: Malibu to vote on hosting laws - TONIGHT
Date: August 10, 2020 at 2:40:29 PM PDT
To: [redacted]

MPierson@malibucity.org, SPeak@malibucity.org, KFarrer@malibucity.org, RMullen@malibucity.org, JWagner@malibucity.org, bblue@malibucity.org

Kelsey Pettijohn

Subject: STR regulation 6A
Attachments: Exh. 2 - Commission LCP Actions on Short-Term Rentals (through May 2019).pdf

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From: John Mazza [redacted]
Sent: Thursday, September 10, 2020 2:56 PM
To: Heather Glaser <hglaser@malibucity.org>; Bonnie Blue <bblue@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Skylar Peak <speak@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; [redacted] Kraig Hill [redacted] ; Trevor Rusin <trevor.rusin@bbklaw.com>; Steve Uhring [redacted]
Subject: STR regulation 6A

Attached is a summary of the approved provisions for short term rentals by the coastal commission as per May 2019. As you will see there are many variations depending on the situation.

John Mazza

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Commission LCP Actions on Short-Term Rentals (*through May 2019*)

The table below lists the LCP actions taken by the Commission on Short-Term Rentals (STRs) and identifies the general regulatory approach and key regulatory parameters of the Local Coastal Program Amendment (LCPA). This table is intended to provide some background information on STR ordinances that have been considered by the Commission and does not provide a comprehensive view of all of the regulatory parameters that may apply in each case. Please use the links to the related Commission staff report and local government ordinance, where available, for additional details.

Note that the checked categories reflect the LCPA **as approved by the Commission**, which includes any suggested modifications that may have been required. LCPAs that were approved as submitted, or denied, are summarized as originally proposed by the local government. The actions in the table are listed by most recent action year. Time extensions for STR-related LCPAs are not included. See the table legend at the end of the table for an explanation of column categories.

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
2018										
City of Pacifica	LCP-2-PAC-18-0075-2 Link to Ordinance	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential* ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☐ *Not Applicable* *Silent on whether STRs would be allowed in approved SFRs or multi-family residences in other zones in addition to residential zones.*	▪ SFRs ▪ Multi-Family Residential Unit	Any location not approved for use as a permanent dwelling unit including: ▪ ADUs ▪ Vehicles ▪ Trailers ▪ Tents ▪ Storage Sheds ▪ Garages	▪ Maximum use of 30 consecutive days per individual stay	▪ *Not Specified*	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☐ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☒ Approved as Submitted ☐ Approved with Modifications ☐ Denied Date: 12/12/2018
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable* *The definition of STR allows for rental of a "portion" of a dwelling unit; however, no specific regulations are provided for owner-occupied STRs.*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
County of Ventura	LCP-4-VNT-18-0058-1 Link to Ordinance	Non-owner-occupied: ☒ Allows → ☒ Prohibits →	☒ Residential ☒ Rural / OS ☒ Agricultural ☒ Other ☒ Commercial	▪ SFRs	▪ ADUs ▪ Farmworker Housing ▪ Affordable Housing	▪ No more than 30 consecutive days per individual stay	▪ Maximum of 10 overnight guests	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☒ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☒ Approved as Submitted ☐ Approved with Modifications ☐ Denied Date: 10/10/2018
		Owner-occupied: ☒ Allows → ☒ Prohibits →	☒ Residential ☒ Rural / OS ☒ Agricultural ☒ Other ☒ Commercial	▪ Individual Bedrooms in SFRs	▪ ADUs ▪ Farmworker Housing ▪ Affordable Housing	▪ No more than 30 consecutive days per individual stay	▪ Maximum of 5 overnight guests	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☒ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None*		
City of Pismo Beach	LCP-3-PSB-18-0051-1 Link to Ordinance	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☒ Rural / OS ☐ Agricultural ☐ Other ☐ *Not Applicable* *Ordinance does not address whether STRs are prohibited in other zones*	▪ SFRs ▪ ADUs	▪ *Not Specified*	▪ No more than 30 consecutive days per individual stay ▪ No limit on frequency of STR rentals (as long as the owner lives on the property for 183 days or more in a calendar year)	▪ Maximum overnight occupancy of two people per bedroom plus two additional people ▪ Number of visitors shall not exceed number equal to allowable occupancy	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☐ Payment of TOT	☒ Approved as Submitted ☐ Approved with Modifications ☐ Denied Date: 8/10/2018 *This LCPA is a second try at regulating STRs under the City's LCP, as STRs have not been explicitly regulated but generally allowed in the Downtown Core and other commercially-zoned areas. The City was denied a 2011 LCPA to regulate STRs (see below).*
		Owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☒ Rural / OS ☐ Agricultural ☐ Other ☐ *Not Applicable* *Ordinance does not address whether homestays are prohibited in other zones*	▪ SFRs (given property owner lives on-site or in ADU) ▪ Individual Bedrooms in SFRs ▪ ADUs	▪ *Not Specified*	▪ None (given property owner lives on-site)	▪ Maximum overnight occupancy of two people per bedroom plus two additional people ▪ Number of visitors shall not exceed number equal to allowable occupancy	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
County of Santa Cruz	3-SCO-18-0032-2-Part B Link to Ordinance	Non-owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☐ Payment of TOT	☒ Approved as Submitted ☐ Approved with Modifications ☐ Denied Date: 6/6/2018 *This is the fourth LCPA of the County's four LCPAs that were approved by the Commission. This LCPA adds owner-occupied (hosted STRs) to the County's existing STR regulations. See County's 2011, 2015, and 2016 LCPAs (below).*
		Owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☒ Commercial ☐ Rural / OS ☒ Agricultural ☐ Other ☐ *Not Applicable*	▪ Any legal dwelling unit where a residential use is allowed without the requirement for any other use	▪ ADUs ▪ Balconies, porches, and sheds ▪ Affordable Housing ▪ Tents and recreational vehicles	▪ Maximum use of 30 days per individual stay	▪ Maximum overnight occupancy of three people per hosted bedroom (children under eight are not counted toward maximum occupancy)	☒ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None*		
City of Del Mar	LCP-6-DMR-17-0083-3 Link to Ordinance	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☒ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other	▪ SFRs ▪ Multi-Family Residential Unit	▪ *Not Specified*	▪ Minimum Number of 3 days required per individual stay and no more than 30 consecutive days ▪Total of 100 days for maximum STR use per calendar year	▪ Maximum overnight occupancy of two people per bedroom plus two additional people	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☒ Parking Requirements ☐ Noise Restrictions ☒ Property Management ☐ Enforcement Program ☒ Payment of TOT	☐ Approved as Submitted ☒ Approved with Modifications ☐ Denied Date: 6/7/2018 *Approval included two suggested modifications: the first modified the City's proposal to require a 7-day minimum stay for STRs and homeshares to a 3-day minimum to allow for greater accessibility of STRs given a lower length of individual stay; the second modified the City's proposed 28-day maximum to a 100-day maximum (through an amending motion).*
		Owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☒ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other	▪ Individual Bedrooms in SFRs and Multi-Family Residential Unit	▪ *Not Specified*	▪ Minimum Number of 3 days required per individual stay and no more than 30 consecutive days ▪Total of 100 days for maximum STR use	▪ Maximum overnight occupancy of two people per bedroom plus two additional people	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
County of Santa Barbara	LCP-4-STB-17-0086-3 Link to Ordinance	Non-owner-occupied: ☒ Allows → ☒ Prohibits → *LCPA prohibits non-owner-occupied STRs in all residential zones, but allows for non-owner-occupied STRs in the Miramar Beach residential neighborhood only through a STR Coastal Historic Overlay.*	☒ Commercial ☒ Other ☒ Residential	▪ STRs shall only be allowed in legal dwelling units and only one dwelling shall be used as an STR on any lot.	▪ Guest House, artist studios, cabanas and other spaces for temporary occupation ▪ Affordable Housing ▪ Farmworker and Agricultural Employee housing ▪ Any structure or space not for legal dwelling (tents, trailers, yurts)	▪ No more than 30 consecutive days per individual stay	▪ Maximum overnight occupancy of two people per bedroom (excluding children under three years of age) plus two times the number of occupants	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None* *No cap applies to non-owner-occupied STRs since they are only allowed in certain commercial and special purpose zones.*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management and Complaint Response Program ☒ Enforcement Program ☐ Payment of TOT	☐ Approved as Submitted ☐ Approved with Modifications ☒ Denied Date: 5/10/2018 *This LCPA was denied in part because of the impacts that the STR ban in residential zones would have on the existing stock of visitor-serving accommodations in the County's coastal zone.*
		Owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable* *LCPA also allows for owner-occupied STRs ("Homestays") in the Miramar Beach residential neighborhood through a STR Coastal Historic Overlay.*	☒ Residential ☐ Commercial ☒ Rural / OS ☒ Agricultural ☐ Other	▪ Homestays shall only be allowed in up to 3 bedrooms of a legal dwelling unit.	▪ Guest House, artist studios, cabanas and other spaces for temporary occupation ▪ Affordable Housing ▪ Farmworker and Agricultural Employee housing ▪ Any structure or space not for legal dwelling (tents, trailers, yurts)	▪ No more than 30 consecutive days per individual stay, with owner or long-term tenant residing on the premises	▪ Maximum overnight occupancy of two people per hosted bedroom (minors not counted toward maximum occupancy) plus two times the number of occupants	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☒ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None* *Property owners shall not possess more than one homestay permit at any given time, regardless of the number of properties a property owner owns.*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
City of Santa Cruz	LCP-3-STC-17-0073-2-Part B Link to Ordinance	Non-owner-occupied: ☐ Allows ☒ Prohibits ☐ *Not Applicable* *No NEW non-hosted STRs allowed; only existing, legal non-hosted STRs are allowed.*	☒ Residential ☒ Commercial ☒ Rural / OS ☒ Agricultural ☒ Other ☐ *Not Applicable*	▪ A building or portion of a building including one or more rooms which is/are designed for residential use by a single family	▪ ADUs	▪ Maximum use of 30 days per individual stay	▪ Maximum overnight occupancy of two people per bedroom, plus two additional persons	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☒ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☒ Approved as Submitted ☐ Approved with Modifications ☐ Denied Date: 4/11/2018
		Owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ A building or portion of a building including one or more rooms which is/are designed for residential use by a single family	▪ ADUs	▪ Maximum use of 30 days per individual stay	▪ Maximum overnight occupancy of two people per bedroom, plus two additional persons	☒ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☒ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None*		
2017 City of Laguna Beach	LCP-5-LGB-16-0055-1 Link to Ordinance	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☒ Commercial ☐ Rural / OS ☐ Agricultural ☒ Other	▪ A room, or suite of rooms with a single kitchen used for residential use and occupancy of one family, including an SFR, apartment or other leased premises, residential condominium, or other residential real estate	▪ Individual guest rooms in a hotel, motel or similar transient lodging establishment operated by an innkeeper	▪ Maximum use of 30 consecutive days or less per individual stay	▪ Maximum overnight occupancy of two people per bedroom, plus two daytime visitors per bedroom	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☐ Approved as Submitted ☒ Approved with Modifications ☐ Denied Date: 12/14/2017 *Suggested modifications eliminated the City's proposed ban on new STRs in residential zones.*
		Owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☒ Commercial ☐ Rural / OS ☐ Agricultural ☒ Other	▪ A room, or suite of rooms with a single kitchen used for residential use and occupancy of one family, including an SFR, apartment or other leased premises, residential condominium, or other residential real estate	▪ Individual guest rooms in a hotel, motel or similar transient lodging establishment operated by an innkeeper	▪ Maximum use of 30 consecutive days or less per individual stay	▪ Maximum overnight occupancy of two people per bedroom, plus two daytime visitors per bedroom	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
County of San Mateo	LCP-2-SMC-17-0051-2 Link to Ordinance	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other	▪ Single-family residential structures ▪ Multi-family residential structures	▪ *Not specified*	▪ Maximum use of 30 consecutive days or less per individual stay. ▪Total of 180 days per calendar year for use as an STR	▪ Maximum overnight occupancy of two people per bedroom, plus two additional persons (children under twelve are not counted toward maximum occupancy)	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☒ Approved as Submitted ☐ Approved with Modifications ☐ Denied Date: 12/13/2017
		Owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other	▪ Single-family residential structures ▪ Multi-family residential structures	▪ *Not specified*	▪ Maximum use of 30 consecutive days or less per individual stay. ▪Total of 180 days per calendar year for use as an STR	▪ Maximum overnight occupancy of two people per bedroom, plus two additional persons (children under twelve are not counted toward maximum occupancy)	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		
City of Eureka	LCP-1-EUR-16-0046-2 Link to Ordinance	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☒ Commercial ☐ Rural / OS ☐ Agricultural ☒ Other	▪ Principal dwelling units (e.g., SFRs) or legally established secondary dwelling units ▪ In residential zones, no more than 75% of the total number of dwelling units on a property may be permitted as STRs, unless a Unit Increase Permit is obtained	▪ *Not specified*	▪ Maximum use of 30 consecutive days or less per individual stay	▪ Maximum overnight occupancy of two people per bedroom, plus two additional persons (children under twelve are not counted toward maximum occupancy)	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☒ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None* *The total number of STRs on a property maybe allowed an increased with the approval of a Vacation Dwelling Unit – Unit Increase Permit.*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☐ Approved as Submitted ☒ Approved with Modifications ☐ Denied Date: 11/8/2017 *Suggested modifications addressed the potential for adverse impacts to coastal resources, including clarifying that the Good Guest Guides provided in STRs promote the availability of off-street parking near the waterfront to address public access concerns. A second suggested modification added a provision to clarify that any change to a STR use that would result in a change in the density or intensity of use of land would require a CDP.*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
City of Trinidad	LCP-1-TRN-16-0065-1 Link to Ordinance	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☒ Commercial ☒ Rural / OS ☒ Agricultural ☒ Other	▪ Legally established residences by tourists for dwelling, lodging, or sleeping purposes, which by definition, comprises a residential use	▪ *Not specified*	▪ Up to 29 consecutive days for all types of STRs (below) ▪ Minimum use of 60 days per year (called a *Full-time STR*) ▪ Maximum use of 59 days per year and must be located in owner's primary residence (called a *Resident STR*)	▪ Maximum overnight occupancy of two people per bedroom, plus two people	☒ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☒ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☒ Approved as Submitted ☐ Approved with Modifications ☐ Denied Date: 6/8/2017 *This LCPA amended the certified IP to delete the City's 2015 Vacation Dwelling Unit LCPA (see below) and added new STR regulations as described here.*
		Owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☒ Commercial ☒ Rural / OS ☒ Agricultural ☒ Other	▪ Rental of up to one bedroom in a primary residence with the requirement that the homeowner be present on site during nighttime hours	▪ *Not specified*	▪ Up to 29 consecutive days per year, but may be rented for longer given that rental is not for more than 29 consecutive days	▪ Maximum overnight occupancy of two people per bedroom, plus two people	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☒ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None*		
County of Mendocino	LCP-1-MEN-14-0840-1 Link to Ordinance	Non-owner-occupied: ☒ Allows → ☒ Prohibits → *Prohibits <u>new</u> non-owner-occupied STRs in residential zones*	☒ Commercial ☒ Other ☒ Residential	▪ A dwelling unit that is the only use on the property and which may be rented short term for transient occupancy	▪ *Not specified*	▪ Maximum use of 29 days or less per individual stay	▪ *Not specified*	☒ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None*	☒ Parking Requirements ☐ Noise Restrictions ☒ Property Management ☐ Enforcement Program ☒ Payment of TOT	☐ Approved as Submitted ☒ Approved with Modifications ☐ Denied Date: 6/8/2017 *Suggested modifications clarified that a CDP is required for the creation of STRs.*
		Owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☒ Commercial ☐ Rural / OS ☐ Agricultural ☒ Other	▪ An attached or detached room or structure which is operated, in conjunction with a residential use or commercial use, as a short term rental for transient occupancy	▪ *Not specified*	▪ *Not specified*	▪ *Not specified*	☒ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None*		

	Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
2016	County of Santa Cruz	LCP-3-16-0052-1	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☒ Commercial ☒ Rural / OS ☒ Agricultural ☒ Other *STRs allowed in all zoning districts that allow residential use*	▪ SFRs ▪ Unit in a duplex or triplex (including condominium and townhouse units)	▪ Habitable and non-habitable accessory structures ▪ ADUs ▪ Affordable Housing Units ▪ Apartment units ▪ Manufactured home in mobile home park	▪ Maximum use of 30 days or less per individual stay.	▪ Maximum overnight occupancy of two people per bedroom, plus two additional persons (children under twelve are not counted toward maximum occupancy)	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☒ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☐ Approved as Submitted ☒ Approved with Modifications ☐ Denied Date: 12/9/2016 *This is the third of the County's four LCPAs that were approved by the Commission. This LCPA modifies the existing ordinance through language and minor operational updates as well as extend regulations governing STRs in the Davenport-Swanson Road Designated Area. See County's 2011 and 2015 LCPAs (below), and the 2018 LCPA (above). The suggested modifications were developed in consultation with the County and were procedural in nature (e.g., modifying the IP to expressly state that ADUs are ineligible for STR use).*
			Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
City of Carpinteria	LCP-4-CPN-16-0024-1	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☒ Other	▪ Residential Units means a building or portion thereof designed for or occupied in whole or in part, as a home, residency, or sleeping place, either permanently or temporarily, and containing not more than one kitchen per residential unit	▪ Tents ▪ Yurts ▪ RVs ▪ Hotel ▪ Boarding house ▪ Lodging house ▪ Motel	▪ Maximum use of 30 consecutive days or less per individual stay	▪ Maximum overnight occupancy of two people per unit, plus two occupants per bedroom	☒ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☐ Enforcement Program ☒ Payment of TOT	☒ Approved as Submitted ☐ Approved with Modifications ☐ Denied Date: 12/8/2016
		Owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other	▪ Rental of up to four bedrooms in a primary residence with the requirement that the homeowner be present on site during nighttime hours	▪ Tents ▪ Yurts ▪ RVs	▪ Maximum use of 30 consecutive days or less per individual stay	▪ Maximum overnight occupancy of no more than four home stay guests per home stay	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		
City of Dana Point	LCP-5-DPT-MAJ-14-0105-1	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☒ Commercial ☐ Rural / OS ☐ Agricultural ☒ Other *Allowed in all zoning districts where residential uses are allowed*	▪ SFRs ▪ Condominiums ▪ Duplexes ▪ Triplexes ▪ Townhomes ▪ Multi-family dwellings	▪ *Not Specified*	▪ At least two consecutive nights, but no more than 30 consecutive calendar days per individual stay	▪ Maximum overnight occupancy of two people per bedroom plus two additional people	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☐ Approved as Submitted ☒ Approved with Modifications ☐ Denied Date: 4/14/2016 *Suggested modifications clarified that the STR ordinance would apply to all areas of the City, which is governed by two separate LCP documents, and that any change to the STR ordinance to limit or prohibit STRs would require an LCPA, whereas changes that do not limit or prohibit STRs may not require a LCPA.*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable* *The definition of STR allows for rental of a "portion" of a dwelling unit; however, no specific regulations for owner-occupied STRs are provided.*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
2015 County of Santa Cruz	LCP-3-SCO-15-0008-1 Part A	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☒ Other *Allowed in all the zoning districts where residential uses are allowed*	▪ SFRs ▪ Condominiums ▪ Duplexes ▪ Triplexes ▪ Townhomes	▪ Apartments ▪ Manufactured homes in a mobile home park	▪ No more than 30 days per individual stay.	▪ Maximum overnight occupancy of two people per bedroom plus two additional people (children under twelve are not counted toward maximum occupancy)	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee ☒ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☒ Approved as Submitted ☐ Approved with Modifications ☐ Denied Date: 5/14/2015 *This is the second of the County's four LCPAs that were approved by the Commission. This LCPA modifies the existing ordinance to clarify and enhance regulations as well as extend regulations governing STRs in the Live Oak Designated Area. See County's 2011 LCPA (below), and 2016 and 2018 LCPAs (above).*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		
City of Trinidad	LCP-1-TRN-14-0846-1	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☒ Other	▪ SFRs ▪ Multi-Family Residences ▪ ADUs	▪ *Not Specified*	▪ No more than 30 consecutive calendar days per individual stay.	▪ Maximum overnight occupancy of two people per bedroom plus two additional people ▪ In Suburban Residential Zone, up to two additional occupants allowed based on size of Vacation Dwelling Unit	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☒ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☒ Approved as Submitted ☐ Approved with Modifications ☐ Denied Date: 3/11/2015 *See City's 2017 LCPA (above) for updated STR ordinance, which deleted this ordinance in its entirety*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
2013 County of San Luis Obispo	SLO-1-12	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☒ Other	▪ Residential Structures, with some constraints based on geographic area (e.g., Cambria, Cayucos, Avila Beach)	▪ *Not Specified*	▪ Less than 30 consecutive days per individual stay ▪ Rental of a residence shall not exceed four individual tenancies per calendar month	▪ Maximum overnight occupancy of two people per bedroom plus two additional people	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☒ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None* *Cap pertains to a limit of four individual tenancies at one residence per calendar month.*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☒ Approved as Submitted ☐ Approved with Modifications ☐ Denied Date: 11/13/2013 *This LCPA is an update to the City's 2003 LCPA (see below) to refine the ordinance to limit STR use in saturated areas and update operational standards, as well as extending specific STR regulations to the Avila Beach community.*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		
2012 City of Solana Beach	Solana Beach Land Use Plan *(No number given)*	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other	▪ Any portion of a building in a residential district, regardless of building size, including: ▪ Multi-family buildings ▪ Duplexes ▪ SFRs	▪ *Not Specified*	▪ 7 to 30 consecutive days per individual stay	▪ *Not Specified*	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☐ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☐ Payment of TOT	☐ Approved as Submitted ☒ Approved with Modifications ☐ Denied Date: 3/7/2012 *The Commission's approval allowed the City to keep the proposed 7-day minimum of consecutive days (despite Staff's recommendation to reduce it to 1-day), as well as to keep their proposal to prohibit STRs of less than 7 days in all residential zones (instead of Staff's recommendation to remove this provision).*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
2011 City of Pismo Beach	LCP PSB-1-10 Part 2	☒ Allows → ☒ Prohibits →	☒ Residential ☒ Commercial *(Hotel-Motel zone)* ☒ Other *(Visitor-serving and Resort Residential zones)*	▪ *Unclear (the proposed definition of STR states: "Any structure, as defined in the building code adopted in Section 15.04.010 of this code, which exists, is constructed, or which is maintained or used upon any premises for the purpose of transient lodging, which consists of four or fewer separate transient rental units")*	▪ *Unclear*	▪ *Not Specified*	▪ *Not Specified*	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☐ Parking Requirements ☐ Noise Restrictions ☐ Property Management ☐ Enforcement Program ☐ Payment of TOT *The operational provisions were unclear. This ordinance was denied by the Commission – see City's 2018 LCP (above) for approved STR ordinance and operational provisions.*	☐ Approved as Submitted ☐ Approved with Modifications ☒ Denied Date: 12/8/2011 *This LCPA was denied for being overly restrictive by prohibiting STR use in all residential areas, which make up a large portion of the City's coastal zone, as prohibiting STR use in these areas would limit the availability of alternative coastal lodging near the shoreline. See City's 2018 LCPA (above) for approved STR ordinance.*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		
County of Santa Cruz	SCO-1-11 Part 3	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☒ Rural / OS ☒ Agricultural ☒ Other *Allowed in all zones that allow residential uses*	▪ SFRs ▪ Duplexes ▪ Triplexes ▪ Condominium ▪ Townhouse Unit	▪ Apartments or manufactured homes in a mobile home park	▪ Not more than 30 days per individual stay	▪ Maximum overnight occupancy of two people per bedroom plus two additional people (children under twelve are not counted toward maximum occupancy)	☒ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☒ Approved as Submitted ☐ Approved with Modifications ☐ Denied Date: 7/12/2011 *This is the first of the County's four LCPAs that were approved by the Commission. This LCPA defines STRs and regulates them as PPUs in residential areas. See County's 2015, 2016, and 2018 LCPAs (above).*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
2006 City of Encinitas	ENC-MAJ-1-06	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other	▪ Any structure or any portion of any structure in a residential zoning district, including: ▪ SFRs ▪Condominiums ▪ Duplexes ▪ Townhomes ▪ Multi-family Dwellings	▪ *Not Specified*	▪ 30 consecutive days or less per individual stay	▪ Maximum overnight occupancy of two people per bedroom plus one additional person per dwelling	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☐ Approved as Submitted ☒ Approved with Modifications ☐ Denied Date: 11/14/2006 *Note: City did not accept suggested modifications and LCPA expired.* *Suggested modification created a STR Overlay Zone where new STRs would be allowed within all residential zones west of Highway 101, which is the high-intensity coastal visitor-serving area, while east of Highway 101 all STRs except legal nonconforming STRs would be prohibited.*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		
2005 County of Humboldt	No. HUM-MAJ-1-98-C	Non-owner-occupied: ☒ Allows *Within Shelter Cove community only* ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other	▪ SFRs ▪ Duplexes	▪ Hotels and Motels ▪ Rooming and boarding houses	▪ *Not Specified*	▪ Number of occupants shall not exceed 10 persons	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☒ Parking Requirements ☐ Noise Restrictions ☒ Property Management ☐ Enforcement Program ☒ Payment of TOT	☐ Approved as Submitted ☒ Approved with Modifications ☐ Denied Date: 9/14/2005 *Suggested modification required that STR use would be principally permitted only upon issuance of a Special Permit subject to compliance with certain performance standards set forth in the IP, including requiring the STR owners/ operators to provide evidence that adequate water and sewer service capacity exists to accommodate the STR use.*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
2004 City of Imperial Beach	DPT-MAJ-1-03	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☐ Residential ☒ Commercial ☐ Rural / OS ☐ Agricultural ☒ Other *A limited number of existing STRs in the high density residential zone would be allowed to exist until 2007.*	*In the Commercial (C-1, C-2) zoning districts:* ▪ Residential dwelling units above the first floor *In the Mixed Use Overlay (MU-2) zoning district:* ▪ Residential dwelling units at a ratio of 1 unit for every 1500 sq. ft. of lot area *In the High Density Residential zone until 2007:* ▪ SFRs ▪ Duplexes, apartments, condominiums, townhomes	▪ *Not Specified*	▪ Less than 30 consecutive calendar days per individual stay	▪ *Not Specified*	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☒ Approved as Submitted ☐ Approved with Modifications ☐ Denied Date: 4/19/2004 *This LCPA is an update to the City's 2002 LCPA (see below) that was denied by the Commission for being excessively restrictive and discouraging towards tourist –related uses and visitor accommodations.*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
2003 County of San Luis Obispo	No. 1-01 Part A	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other	▪ Use of existing residence, or new residential structures, with additional requirements based on geographic area (i.e., Cambria and Cayucos urban reserve line)	▪ *Not Specified*	▪ Less than 30 consecutive days per individual stay ▪ Rental shall not exceed one individual tenancy within seven consecutive calendar days; ▪ This definition does not include the one time rental of a residence for 14 consecutive days or less in any calendar year	▪ Maximum overnight occupancy of two people per bedroom plus two additional people	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☒ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☐ *Not Applicable / None* *Cap pertains to a limit of one individual tenancy per seven consecutive days at one individual residence*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☐ Approved as Submitted ☒ Approved with Modifications ☐ Denied Date: 4/11/2003 *See City's 2013 LCPA for updated STR ordinance to limit STR use in saturated areas, update operational standards, and extend specific STR regulations to the Avila Beach community.* *Suggested modifications addressed adverse impacts on public parking, coastal water supplies and community character by: limiting the allowable density of STRs by prohibiting their establishment within 500 ft. of a parcel being used for the same purpose; requiring on-site parking for all STR tenants; clarifying that construction of residential structures for STR use must comply with LCP standards applicable to construction of a residence; and requiring evidence that water and sewer services can accommodate the STR use.*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

Local Government	LCP# and Links	How LCPA Addresses STRs?	In Which Types of Zone(s)?	Eligible Structures for STR Use?	Ineligible Structures for STR Use?	Limits on Duration of Stay?	Occupancy Limits?	STR Caps?	Other Operational Standards?	Commission Action
2002 City of Imperial Beach	IMB-MAJ-1-02-A	Non-owner-occupied: ☒ Allows → ☒ Prohibits →	☒ Commercial ☒ Other ☒ Residential *Note: A limited number of existing, STRs in the high density residential zone would be allowed to exist until 2007*	▪ Any Dwelling Unit, except those dwelling units lawfully established as part of a bed and breakfast inn, motel, hotel, timeshare development, or other transient use	▪ Bed and breakfast inn ▪ Motel ▪ Hotel ▪ Timeshare development ▪ Other transient use	▪ Less than 30 consecutive days per individual stay	▪ One person per 200 square feet, plus one person	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☒ Parking Requirements ☒ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☐ Approved as Submitted ☐ Approved with Modifications ☒ Denied Date: 9/9/2002 *This LCPA was denied for being excessively restrictive and discouraging towards tourist-related uses and visitor accommodations. See City's 2004 LCPA (above) for resubmitted and approved STR ordinance.*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		
1992 City of Capitola	CAP-MAJ-2-92 *(No Link Available)*	Non-owner-occupied: ☒ Allows ☐ Prohibits ☐ *Not Applicable*	☒ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other *Transient rental use allowed in Transient Rental Use Overlay District only*	*Transient rental use allowed in Transient Rental Use Overlay District, which includes R-1 or R-M districts, which comprise of:* ▪ SFRs ▪ Multi-family Dwellings	▪ ADUs	▪ Less than 30 consecutive calendar days per individual stay	▪ *Not Specified*	☐ Cap on # of non-owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of non-owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*	☒ Parking Requirements ☐ Noise Restrictions ☒ Property Management ☒ Enforcement Program ☒ Payment of TOT	☐ Approved as Submitted ☒ Approved with Modifications ☐ Denied Date: 12/10/1992 *Suggested modifications did not pertain to the STR provisions of the LCPA, so the STR provisions were approved as submitted.*
		Owner-occupied: ☐ Allows ☐ Prohibits ☒ *Not Applicable*	☐ Residential ☐ Commercial ☐ Rural / OS ☐ Agricultural ☐ Other ☒ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	▪ *Not Applicable*	☐ Cap on # of owner-occupied STRs allowed within Local Jurisdiction ☐ Cap on # of owner-occupied STRs allowed by Permittee / Parcel ☒ *Not Applicable / None*		

TABLE LEGEND

- **Local Government**: The City or County undertaking the LCP action before the Commission.
- **LCP # and Links**: The LCP Amendment (LCPA) number and link to the Commission staff report. Where *Link to Ordinance* is available, the link takes you directly to the separate, Commission staff report exhibit containing the proposed ordinance.
- **How LCPA Addresses STRs**: Whether the LCPA allows or prohibits non-owner-occupied short-term rentals (e.g., rental of entire residence, where owner is not present on-site) and/or owner-occupied short-term rentals (e.g., home stays and home shares, where owner is present on-site). Note that the checked categories reflect the LCPA as approved by the Commission (e.g., an LCPA that proposes complete prohibition but is modified by the Commission to partial allowance would show *allows* STRs). Where *Not Applicable* is checked for either non-owner-occupied or owner-occupied STRs, the LCPA either clearly distinguished which STR type(s) (owner-occupied and/or non-owner-occupied) was being regulated, or remained silent on one of the STR types being regulated. (For example, the ordinance may have clearly regulated rental of an entire residence as an STR, which is non-owner-occupied, but then did not clearly address other rental aspects such as partial rental of a residence, owner-occupied rental of a residence, etc.)
- **In Which Types of Zone(s)**: The relevant category in which the allowance or prohibition of STRs applies. Note that these categories are broad and may reflect allowance or prohibition in only a portion of the checked category (e.g., only in the coastal zone of a particular zone, in certain residential zones but not others, etc.,).
- **Eligible Structures for STR Use**: The structures where STRs are allowed, if specified in the LCPA.
- **Ineligible Structures for STR Use**: The structures where STRs are prohibited, if specified in the LCPA.
- **Limits on Duration of Stay**: The restrictions on durations of individual stays and/or total stays per year, if specified in the LCPA.
- **Occupancy Limits**: The restrictions on occupancy for individual stays, if specified in the LCPA.
- **STR Caps**: Whether the LCPA includes a cap on the number of STRs allowed, including by Local Jurisdiction (e.g., a cap on the total number of STRs allowed within the local government's jurisdiction) and by Permittee or Parcel (e.g., a cap on the total number of STRs allowed per person legally operating the STR, or by parcel).
- **Other Operational Standards**: Additional operational standards that were included in the adopted LCPA, including:
  - Parking Requirements: Does the LCPA include any parking standards specific to STRs?
  - Noise Restrictions: Does the LCPA include any noise restrictions specific to STRs?
  - Property Management: Does the LCPA include requirements for property management, such as the presence of on-site or proximate management, a complaint response program, providing a good neighbor policy and/or list of rules for renters, notifying nearby neighbors of STR use, etc.?
  - Enforcement Program: Does the LCPA include provisions for reporting complaints to the local government, or for violations to lead to penalizations, such as loss of permit for STR operation?
  - Payment of TOT: Does the LCPA require payment of transient occupancy taxes as part of the permitting or renting process?
- **Commission Action**: Results of the Commission action on the proposed LCPA.

Acronyms

- **ADU = Accessory Dwelling Unit**
- **OS = Open Space**
- **SFR = Single-Family Residence**
- **STR = Short-Term Rental**

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FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/14/2020
Agenda Item # 4A

Heather Glaser

Subject: Item 4A Short term rental comments

From: John Mazza [redacted]
Sent: Saturday, September 12, 2020 4:01 PM
To: [redacted] Rick Mullen <rmullen@malibucity.org>; Skylar Peak [redacted]; Skylar Peak <speak@malibucity.org>; Jefferson Wagner [redacted]; Jefferson Wagner <jwagner@malibucity.org>; Mikke Pierson [redacted]; Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>
Subject: Item 4A Short term rental comments

Council Members

On July 22,1010 the Planning Commission held a very long meeting to review the proposed ordinance for short term rentals . We were under instructions to take public input and produce a resolution that included suggested changes in the proposed ordinance. We were very aware of the instructions from the city council to produce an ordinance that was as close to the Santa Monica ordinance. The planning commission members worked together to recommend unanimously (not common as you know) that several recommendations were so important that they should be included in the revised ZTA.

Staff has recommended that several of those recommendations not be adopted in the final ZTA by the council. The following is an explanation of why I believe that the planning commission recommended to be eliminated are important to be included in the ZTA. **PLEASE CONSIDER INCLUDING THEM.**

From the staff report
Guest Houses. The Planning Commission recommended that guest houses be ineligible for short-term rental use. Based on the Council suggesting such use was to be allowed, staff has included the amendments needed to allow such use. If Council wishes to prohibit guest houses from being rented on a short-term basis this provision can be removed.

As proposed in the staff report recommended ZTA

1.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

Why this section should eliminate the last sentence and not allow short term rentals of guest houses.

1. Guest houses by definition (see above) may have " no kitchen facilities and not rented or otherwise used as a separate dwelling." Thus by including guest houses as eligible for use as short term rentals)(not legal see below) you will be making the **ONLY** use of a guest house for rental purposes a short term rental. It will be illegal under the code to rent them monthly or yearly basis thus creating up to 1000 no kitchen facilities as short term rentals greatly expanding short term rentals in Malibu. I repeat **THE ONLY RENTAL USE OF A GUEST HOUSE WILL BE SHORT TERM RENTALS AND THEY WILL HAVE NO KITCHEN FACILITIES. AND they will be in conflict with the definition of a Short Term Rental in the ZTA**

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/2020 Agenda File

'SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a **dwelling unit**, or a portion thereof, for a period of 30 consecutive days or less to a transient.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only **one kitchen**. 'Dwelling unit' also includes: A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

These provisions do not allow a guest house to be rented since it has no kitchen and does not fit the definition of a "short term rental" which requires that they be dwelling units (see definition above). In the past there have been no legal guest houses permitted that would qualify.

2.

Staff report
"City Council Policy #43. This Council policy establishes a code enforcement policy for the City that states "anonymous complaints relating to zoning violations on residential properties will be not investigated." The Planning Commission suggested that this policy be revised to allow anonymous short-term rental complaints to be investigated. Policy #43 discourages false complaints, facilitates follow-up and investigations, and allows Code Enforcement personnel to determine if complaints are generated by one person or many. As the Council did not direct any change to this policy, it has not been included. Staff recommends that the policy remain consistent for all types of violations. If Council desires to revisit Policy #43 staff can bring back more detailed analysis and proposed language."

For your reference Council Policies are linked below

https://www.malibucity.org/DocumentCenter/View/46/Council-Policies?bidId=

The planning commission suggested that the use of this policy is counter productive to the enforcement of the ZTA provisions in that it does not

A. Under policy 43 1c the only code violations that can be investigated by the code enforcement officer without a written complaint signed by a compla
tant are

I. public health and safety violations
ii ongoing construction
iii zoning violations in non residential zones(**THAT IS RIGHT NON RESIDENTIAL ZONES)**
iv. unpermited habital structures that can be easily viewed from the street.

BECAUSE OF THE PROVISIONS OF POLICY NUMBER 43 THE CODE ENFORCEMENT CAN NOT INVESTIGATE MOST OF THE PROVISIONS IN THE ENFORCEMENT SECTION. HE/SHE FOR EXAMPLE MAY NOT ON HIS/HER OWN DETERMINE IF A LICENSE NUMBER IS ON AN AD, IF PARKING REQUIREMENTS ARE BEING FOLLOWED, IF THERE ARE STRCODE VIOLATIONS OR EXISTING BUILDING CODE VIOLATIONS The property is not in condition to be rented in accordance with the ordinance requirements,The property does not comply with all applicable safety codes, laws or ordinances **ETC ETC/**

B. Because of the very nature of the short term rental problem any neighbor or tenant who submits a complaint is put in a situation of retaliation and loss of housing.

1. In the case of a residential owner who has a problem that violates the short term rental, due to the immediacy of the situation (evidence of violation) will be forced to make a decision at perhaps 2 or 3pm in order to have a valid complaint . Most citizens (99%) do not know council policy 43 or the details of the codes. They must rely on reluctant Sheriffs to write up a report which the code enforcement officer may not use as a complaint .If an abusive neighbor is violating the short term ordinance they can expect retribution as has happened in many cases. **THIS IS A NEIGHBORHOOD VIOLATION AND IT SHOULD NOT BE UP TO ONE INDIVIDUAL TO FORCE THE CITY TO ENFORCE THE ORDINANCE.**

2.In the case of a tenant in a multi family unit the only manner in which the situation can be addressed by the code enforcement officer is for the tenant to sign a complaint against his land lord. This would put the tenant in the position of losing his housing. **AN EXAMPLE OF THIS IS MICHAEL LUSTIG WHO SPENT 1000S OF HOURS FIGHTING SHORT TERM RENTALS AND LOST HIS UNIT IN A MULTI FAMILY BUILDING AFTER RECEIVING A 4X RENT INCREASE. HE NOW LIVES IN TARZANA.**

I KNOW SOME OF YOU WILL NOT BELIEVE THAT COUNCIL POLICY #43 ACTUALLY REQUIRES THIS BUT PLEASE READ IT . IT DOES SAY THIS(link above)

IT IS MUCH MORE IMPORTANT THAT YOU RECOGNIZE COUNCIL POLITY #15 WHICH "ARTICULATES THE IMPORTANCE OF THE GENERAL WELFARE OF THE COMMUNITY OVER THE SPECIAL INTERESTS OF AN INDIVIDUAL OR GROUP WHETHER PRIVATE CITIZEN OR CITY OFFICIAL.

(see link above)

3.Multi Family units

Staff report

"Multifamily Short-Term Rental Permits. The Planning Commission recommended that the short-term rental permit provisions for multifamily properties be amended to further restrict how many units can be rented. More specifically, the Commission's proposed change would prohibit more than 40% of the multifamily units from being rented. The multifamily limits previously recommended by the Council already limit multifamily properties to having a maximum of two units available for short-term rental (if all other units are rented on a long-term basis). The Commission's proposed change would thus primarily affect duplexes, triplexes, and quadplexes. The change would completely bar short-term rentals in duplexes, and limit triplexes and quadplexes to one unit instead of two. Based on the Council's direction to allow up to two units on a multifamily parcel to be rented on a shortterm basis, this change was not incorporated into the proposed amendments. If Council wishes to modify the provisions for multifamily short-term rental permits these sections can be amended. "

The planning commission considered many issues involved but mainly found that the mere fact that a zone is having its very nature changed by allowing more that 50% of most of the zone to change use from residential to commercial (hotel /motel) use is improper . In the case of a tri plex the structure would be 66% short term rental and in the case of quadraplexs it would be 50%. A presentation by Michael Lustig on the effects on West Malibu Road to the city council is an example where the nature of the entire neighborhood is drastically effected and has caused big problems to what once was a quiet neighborhood.

THIS IS AN EXAMPLE OF WHERE THE COUNCIL POLICY # 15 SHOULD COME INTO EFFECT. A 40% limitation is proper and fair.

4. Enforcement

Although the staff generally followed the advice of the planning commission one important code enforcement tool that has not been included is a provision that the short term rental advertisements apparently are not required to be displayed on all ads in this section . This is a required tool of the code enforcement officer to identify violators and force suspension of all such advertising. **IT IS VERY VERY IMPORTANT THAT THIS BE ADDED. EVERY SUCCESSFUL CITY HAS HIS PROVISION .**

Thank you for your consideration. Please do not turn Malibu into a motel.

John Mazza

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Kraig Hill
[redacted]

BY EMAIL ONLY

September 12, 2020

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/14/2020
Agenda Item # 4A

City Council
City of Malibu
23825 Stuart Ranch Road
Malibu, California 90265

Re Item 4A, Short-Term Rental Ordinance

Dear Council members,

First a few thoughts about STR's generally, then some more specific comments on the ordinance.

Please view the hosted ordinance as being foremost about preserving community. It's about having neighborhoods with neighbors living in them, not strangers. It's *not* most essentially about disturbance, parties, bad apples, or enforcement issues – all of which matter, but they're not the main point.

In that regard, recall an appellate case I've cited before, but which went unremarked: *Ewing v. City of Carmel-by-the-Sea*.[1] There the court found that short-term rentals alone, even in the absence of neighbor complaints, threaten the residential character of a neighborhood because "short-term tenants have little interest in public agencies or in the welfare of the citizenry." That precedent counters anyone who says, "Well, if no one complains, what's the harm?" The harm is that every house that doesn't hold a permanent neighbor is a strike against community.

I don't think the City has a clear idea of how much penetration STR's have made among the city's housing stock. The staff report's estimate that only 452 properties in the city are being rented out is not credible. That would be 1/13 of the housing stock.[2] Yet of the 25 houses closest to me, 8 are STR's – that's 1/3 of my neighborhood! (Only one is owner-occupied; the rest are profit-making miniature hotels with absentee owners.) Plus, it's hard to believe that my rustic old neighborhood has anywhere near the density of STR's as do the more toney, beach-side neighborhoods like Malibu Road. I do see a lot of online listings for STR's on the beach below Big Rock.

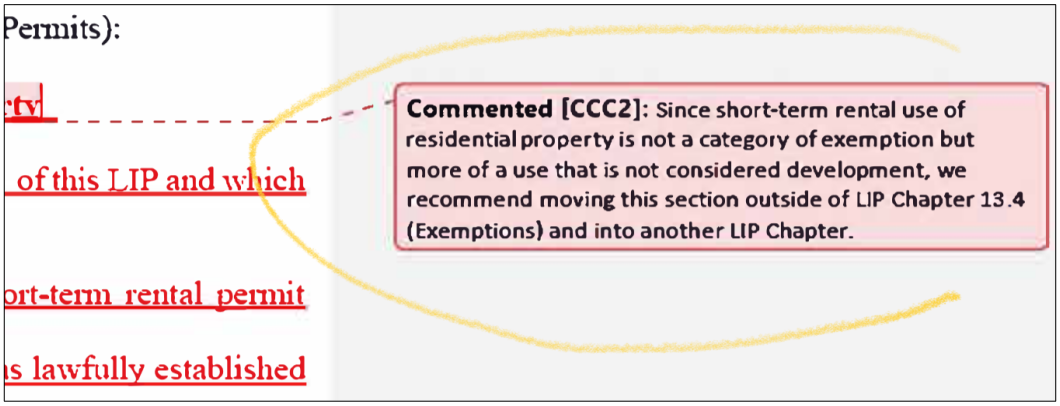
So it seems plausible that something I read (I forget where) is true: that only about half of the units in play are being reported by Host Compliance. (As an aside pertaining to Malibu's low 36% Census participation, Chris Marx and I ran some back-of-envelope numbers, and figured the population is down to around 8,000, and that the number of STR units may indeed be as much as double what's been reported by Host Compliance.) Apropos, I recall that Michael Lustig strongly favors a specific company other than Host Compliance – please consider that option.

1 Ca Ct App 1991 https://caselaw findlaw.com/ca-court-of-appeal/1766940.html
2 Out of 5,800 housing units, according to the Malibu Times, August 2020.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/2020 Agenda File

[A brief aside. It's discouraging that the Staff Report focuses so much on budgetary considerations, with little discussion of community. It still gives substantial weight to the myopic Raftelis report, which the public roundly criticized. Counting nothing against Ms. Shavelson's perfectly fine writing, it seems odd to consider the topic through such a narrow financial perspective, when it's really more a matter of city planning and zoning. (Maybe this should've been a report for Joyce P.-B. to write). Many facets of the Malibu way of life have not been considered. The word "neighbor" or "neighbors" appears only five times in 100+ pages. The words "stranger," "speculator," "commodity," "profit," "investment," and "dehumanizing" don't appear in the report at all. It's as though the implicit narrative is just about how much TOT the City keeps or foregoes.]

Turning to the substance directly before you, no logical argument has been made, beyond mere assertion, that the Hosted Ordinance must be pre-approved by the Coastal Commission. It appears that even the Commission doesn't think so, as expressed through the very limited comments they provided in response to staff's query. In their most substantive comment (copied below), they note that STR's are "not considered development" – so no CDP required. In the end, they make only a few minor housekeeping suggestions.



Coastal Commission acknowledges: no CDP required.

Recall that the Santa Monica Daily Press reported:[3]

> In *City of Santa Monica v. Diana Hayak*, the Appellate Division of the Superior Court [found the]...**Home-Sharing Ordinance is a valid exercise of the City's police powers and not preempted by the California Coastal Act.** The trial court further held that the Home-Sharing Ordinance "**does not require a coastal development permit and the [Coastal] Commission's authority does not extend to approving or rejecting general laws adopted by cities."**

That precedent, affirmed at the appellate level, is applicable to Malibu, if anyone were to challenge the ordinance in court for lacking a CDP. But then, it would be reckless for anyone to bring the "lack of CDP" argument against the City in the first place. The court's language, that "the Home-Sharing Ordinance does not require a coastal development permit," is unequivocal. Yet so far this Council – at the urging of the City Attorney but without clear evidence – still thinks Coastal needs to approve it.

3 February 19, 2019. https://www.smdp.com/santa-monica-city-prosecutors-obtain-a-trio-of-wins-in-short-term-vacation-rental- enforcement-cases/173258

Still, if you're committed to that position, there's at least one important thing you can do, which will provide certainty to all parties: **implement the ordinance simultaneous with your filing of it with Coastal.** After all, you would presumably impose a six-month grace period, which you could start tolling immediately, while you wait for Coastal's blessing (however unnecessary it may be). Otherwise, if you would only send it to Coastal first, you'd effectively be imposing two separate waiting periods – one while the City waits to hear from Coastal, and only after that, the 6-month grace period.

Don't let it get to two separate waiting periods. If you start the grace period immediately (after second reading), the new regime will come into effect in the Spring. Commercial non-resident owners would have an incentive to get out of the business as soon as convenient, selling to new-resident families (ideally). Whereas, if you were to stack two waiting periods end to end, the new regime wouldn't come into effect for another year. That could induce commercial owners to hang on, not to sell as soon as convenient, but instead to try and reap another Summer's worth of income, before finally selling off. Thereby becoming even more entrenched in the city, and feeding the City's addiction to TOT.

If the Hosted Ordinance would come into effect in ~6 months, then whether you would need to go with the enforcement ZTA is "six on one, half a dozen on the other." It would probably solve a few "loud neighbor" problems in the interim, but at the expense of causing some disruption and confusion among the public by having two separate regimes go into effect in such short order. All else being equal, if the grace period for the hosted ordinance is over by Spring, then you'd be dealing with Winter's fewer rentals, so could probably omit the interim ZTA.

Meanwhile, always be mindful that this is about "home sharing." I still don't get why you went with *designated operators*. Santa Monica's vision of *owner or primary resident* is perfect. It's not too late to specify that. Allowing a proxy "operator" is a start down a slippery slope, adding unnecessary complications. We need to retain neighbors in neighborhoods. Operators are still not neighbors. Owners who don't live onsite wouldn't be too inconvenienced to be required to have a *primary resident* renting in their place.

If you must allow operators, there's at least one wrinkle to iron out. The draft ordinance says that, "No person may serve as a designated operator for more than one short-term rental concurrently." That probably needs to be more specific. Maybe include: "**An Operator shall not operate more than one unique STR in any given one-year period**." Otherwise an operator could just be hosting a different STR each week, changing their filing at City Hall on the way over to the new place. In other words, an operator should function as a proxy of the single owner as much as possible, so that neighbors can get to know them as a virtual member of the community. Pin that language down.

I'm not sure how three units per property slipped through – owner/operator plus two guest units – as per the following highlighted quote:

- Each permit may include up to two listings. This will allow a property that has two dwelling units (such as a main house and a second unit) to be able to rent either unit on a short-term basis. Either could be used as a hosted short-term rental, with the owner or designated operator living onsite either in the unrented unit or in a bedroom of the rented unit.

That's tripling the parking impact, for example. Let's not turn our neighborhoods into youth hostels. Maybe you could **limit the "two listings per permit" only to properties that have adequate off-street parking, e.g., 6-8 off-street spaces**.

The planning commission voted to prohibit the use of guest houses. I realize you probably don't want to do that, but there are few serious considerations. As it is, a "guest house" by definition doesn't have kitchen facilities. **Any such structure that couldn't be rented to a long-term resident shouldn't be rentable short-term, right?** You should permit rental of proper second-unit "dwelling units" with kitchens, but not mere guest houses.

Another compromise (not ideal) would be to say that a guest house is eligible but you can only have one STR on site at a time, whether it's in the guest house or in the main house. It's the owner or primary resident plus one rental party, not two.

Also, I would underscore the concerns about enforcement and Policy #43, as articulated by the Planning Commission. Please **allow anonymous short-term rental complaints to be investigated**; the Commission's reasoning is solid. (For that matter, anonymous complaints should be investigable for many other sorts of code violations.)

Finally, the permitting of any sort of STR, under any rubric, **should be suspended during *any* formal Covid safety regime** (closed restaurants, etc.). Until there is a widespread, efficacious vaccine, for example, we should not be actively inviting into the city more strangers from who knows where, who might be communicable. Especially where you're considering having three units per parcel — you would have the host and two *groups* of STR strangers living in the same house in the same communicable cloud. Really? There's no definite evidence that we'll be past Covid in less than a few years — nothing but hopes and crossed fingers that there will be a vaccine that actually works and that is available to enough people. That's by no means a certainty yet. At a minimum, require a negative Covid test of all guests, done no more than a week prior to occupancy.

STR's are destroying the fabric of our community. The more you accommodate them, the more you will be held complicit in the eyes of future Malibuites. Please be conservative of residents' interests – as you are required to be, under **Council Policy No. 15**: "The general welfare of the City's residents *shall always* be considered as primary to any special interests of any individual or group of individuals or the interests of any individual elected or appointed official." We, the community, don't owe anything to those who insist their STR's are sacred. Surely 95% of those folks could switch to long-term rentals and still make out okay. Please ensure that the bumper sticker *Malibu, a way of life* still means something special.

Respectfully,
Kraig Hill

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Sep 14 2020
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STR

Lydia Graham [redacted]

Mon 9/14/2020 4:22 PM

To: City Council <citycouncil@malibucity.org>

In regard to the short term rentals- and the state of our new unprecedented times, my view in str has truly shifted.

Homes should be a safe place. when I sign long term rental contracts there is a clause for "quite and peaceful enjoyment ".
There is nothing quite or peaceful about people coming and going In Malibu Residential Neighborhoods.
Shift the topic to allowing for long term rentals- or change zoning from SF1 to 2 or 3 for long term rentals. This will help bring more long term residents to Malibu.
Be well-
Sent from my iPhone

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Meeting Date 9/14/20
Agenda Item # 4A

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Heather Glaser

From: [redacted]
Sent: Saturday, September 12, 2020 10:05 PM
To: Rick Mullen; Skylar Peak; Jefferson Wagner; Karen Farrer; Mikke Pierson; Heather Glaser
Cc: Bonnie Blue; Trevor Rusin; Christi Hogin
Subject: Item 4A, Short-Term Rental Ordinance
Attachments: Notes to City Council of Malibu - Short Term Rentals - Sept 14 2020 - Lynn Norton.docx

Dear City Council Members,

My comments regarding the Hosted Short Term Rental Ordinance.

Hopefully you agree with my points - if so please print the attached and address them during the meeting !

Thank you.

Lynn Norton

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Office of the City Clerk
Meeting Date 9/14/2020
Agenda Item # 4A

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Notes to City Council of Malibu - Short Term Rentals - Sept 14 2020 - Lynn Norton

PART ONE: MODIFICATIONS

(1) The most important thing is to get rid of the concept of a designated operator. This makes the ordinance almost meaningless and will require a new Council or a voter referendum to make it right. In Santa Monica they understood that with designated operators you have hotels and hotel managers; they rejected that concept and went with homesharing. The Malibu City Council professed to want to give the city an ordinance similar to Santa Monica's. I believe the Council then wanted to make a provision for residents who do STR's in their own home when they go on vacation, and inadvertently clobbered the whole ordinance with this Designated Operator loophole. I request the following:

   a. Change the ordinance so that GENERALLY it must be the primary resident on site, similar to Santa Monica's ordinance.
   b. Make a provision for primary residents to do a LIMITED NUMBER, perhaps TWO, vacation rentals per calendar year, when they are not personally on site.
   c. Specify that a designated operator in that vacation rental scenario must be a long-term Malibu resident or an immediate family member.

(2) In the interest of solidarity with our fellow Malibu neighbors, why are we selling out the multi-unit properties? People who live there as long-term residents also want neighbors and not a steady stream of new vacationers next-door. Santa Monica does not allow this. If a multi-unit complex has a common foyer, it is a security risk to enter your own building not knowing who else has a key to that building. Santa Monica allows homesharing within a dwelling unit of a multi-unit complex, in which the owner/landlord resides. Please don't allow STR's in otherwise vacant multi-unit homes.

(3) In the Malibu draft, under the definition of Guest House, a phrase has been added and it should not be: "unless permitted pursuant to a valid short-term rental permit". Guest Houses in Malibu have always been defined such that they "are not rented or otherwise used as a separate dwelling". (I have a theory how this got into the ordinance: I have had conversations with Council members in which the Council member misremembered the MMC definitions of "Guest House" and "Second Unit". In the MMC, a Second Unit is a dwelling unit, but a Guest House is not. Perhaps at a meeting a council member(s) talked about allowing STR's in a Guest House when they meant Second Unit.) There's no good rationale for why creating a short term rental ordinance should suddenly turn every Guest House in Malibu, which is not currently a legal dwelling unit, into a legal separate dwelling unit! What a mess!

(4) In section 17.55.020 paragraph B it says "Each permit may include up to two listings, one per dwelling unit." Council did not direct staff to include two listings per property and it is excessive – please remove that. If you decide to keep it – please make it clear that the property cannot do two STR's on the property at the same time and specify how that will be enforced.

(5) Enforcement: The Grounds for Denial or Revocation includes violations of most but not all of the provisions in 17.55.010. For example, under 17.55.010 item 5, being available 24*7, item 6,

providing smoke detectors etc, item 9, maintaining liability insurance, item 10, complying with advertising rules and item 13, complying with fire and building & safety and other laws – these provisions can apparently be violated without that being a ground for denial or revocation of permit. How are these things enforced? A single violation of the requirement to be available 24*7 should be grounds for revocation, since this is entirely in the owner's control and such a violation would demonstrate irresponsibility.

(6) Two paragraphs from Santa Monica are important to include in Malibu's ordinance:
   a. In Enforcement: "Any interested person may seek an injunction or other relief to prevent or remedy violations of this chapter. The prevailing party in such an action shall be entitled to recover reasonable costs and attorney's fees."
   b. Somewhere: "All hosts and their respective properties, authorized by the City for short term rental purposes pursuant to this Section, shall be listed on a registry created by the City and updated periodically by the City. The City shall publish the registry, and a copy shall be sent electronically to any person upon request." [The Malibu draft ordinance refers to a registry but never talks about creating it or making it available.]

(7) In the Malibu draft, under that definition of SHORT TERM RENTAL, it talks about renting "for a period of 30 consecutive days or less to a transient". Please strike "to a transient" > it doesn't matter to whom you are renting- don't let the word create some potential loophole.

(8) In the Malibu draft under section 17.55.020(A)4 it says "no more than one (1) vehicle may be parked on the street by persons present at the property during the short-term rental of the property." The phrase "present at the property" is ambiguous and the fact that the intention is one vehicle IN TOTAL is ambiguous. Please change to something like this: "one vehicle in total, belonging to either the host or the guests, may be parked on the street during the short term rental."

PART TWO : PROCESS REQUESTS

(1) When you pass the Hosted STR ordinance on Monday, establish the enforcement date to be "the later of 8 months from now or the date of Coastal approval". I.e. don't wait until we go through a lengthy Coastal process and THEN put property owners on notice. With an 8 month phase out period owners will know they have until May 2021 to repurpose their STR properties.

(2) When you pass the Hosted STR ordinance on Monday, start a one year moratorium on any NEW non-resident STR (including multi-unit) activity (this would not stop new homeowner vacation rental activity, but would stop additional houses from being removed from our housing stock). Only allow ongoing STR's on properties that are currently reporting TOT, and only at the same activity level as in the past year or two.

Heather Glaser

From: [redacted]
Sent: Monday, September 14, 2020 2:46 PM
To: Rick Mullen; Skylar Peak; Jefferson Wagner; Karen Farrer; Mikke Pierson; Heather Glaser; Bonnie Blue
Cc: Christi Hogin; Trevor Rusin
Subject: A small point

In the Malibu draft 17.55.090 paragraph B says "Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay."

In place of the word "owner" it would be safer to use the Santa Monica language "person responsible". (To stay in the shadow of Santa Monica's legal victory, we are not supposed to require the platform to in any way monitor the content that is posted unless they are completing a booking transaction. Thus, the platform should not be required to know who the owner of the property is; at the time a listing is posted, all the platform knows is who did the listing, not whether that is the property owner.)

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Agenda Item # 4A

Laurence Stuppy II
[redacted]

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Sep 14 2020
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September 14, 2020

City Council
C/o Patricia Salazar, Senior Administrative Analyst
psalazar@malibucity.org
CityCouncil@MalibuCity.org
23825 Stuart Ranch Road
Malibu, CA 90265

RE: Short Term Rental [STR] - 33334 Pacific Coast Highway
Request to have our property "Grandfathered in", or "waived" from STR

To the Honorable Mayor and City Council Members

My grandparents, along with their children, purchased our first lot in 1948. As a child, I remember visiting the first house when it was being built. In 1998, my mother, Mrs. Laurence Stuppy, passed away and we inherited the property. It has consistently been a "multi-family" beach house. Over all these years we have had the house rented both as a short-term or a long-term rental… The beach house is in a Limited Liability Company (LLC) for liability protection; no family member is allowed to live at the property permanently. [from July 29, 2020 letter]

The current proposed ordinance would deny long-time multi-family owners the right to rent their property from time-to-time to cover maintenance, insurance, taxes, fees, etc. Since 1948, there has never been a family member as a "Malibu resident". The LLC manager should be allowed to maintain the permit as the "natural person" (resident). The ordinance is excessively "punitive" and, therefore, could cause **irreputable harm** to our family. We have complied with all municipal codes, even those that pre-exists the City of Malibu. [July 29, 2020 letter]

We are requesting that we be "grandfathered-in" and exempt [waived] from the short-term ordinance and allowed to rent the property as we have in the past without restrictions to any new ordinance. We contend that the STR Ordinance could have an adverse effect on the beach environment and would deny others (renters) the enjoyment of the beach property. This denial is contrary to the Coastal Commission. The STR could result in the loss of the family property and therefore is unacceptable as presented. [July 29, 2020 letter]

As expressed during the City Council meetings on several occasions, I have talked about the problems with the proposed ordinance. I want my prior comments included as part of this objection. I have also stated that we do comply with ~~most of~~ the concerns of the ordinance. The proposed ordinance is excessively "punitive" and subjective, and therefore, it is "unreasonable", especially if a situation is out of our control. We have not had any complaints.

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We vehemently object to the hosted prevision / “home-share”. This would make the property more like a “bed and breakfast” or an “Airbnb” type of lodging which is disgraceful for Malibu. Hosting may require an ADU [an accessory dwelling unit] as authorized by the State.

This is inherited property with more than 25 owners. We do not allow family to live full time at house but share the use of the property [more than half of the year]. If a parent or grandparent passes away, their children could lose their property if unable to rent short term. ***You MUST provide a “custody option” for inherited property to allow the extended family to be a primary resident.*** Only one Council member has understood this but the rest have had deft ears.

We object to the two plus two (2+2) bedroom requirement. As explained previously, children and babies are people too and could live in a bedroom with a parent or in another room on the property.

We again request that we be grandfathered-in with a waiver to excessive, unjust "citations" and “regulations”. Our property is located on a gated private road. This ordinance denies our reasonable and fair use of our private property. I can not even figure out what is in this new proposed ordinance.

These permits and fees are nothing more than a means for the city to generate income from STR fees, an OWTS Operating permit, un-justified fines, etc.
The STR Ordinance should be DROPPED and current laws should be enforced.

Sincerely,

_____

Laurence Stuppy II
[redacted]

MARSHALL A. CAMP
Partner

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HUESTON HENNIGAN LLP

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September 13, 2020

VIA E-MAIL

FILED
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Meeting Date 9/14/2020
Agenda Item # 4A

Hon. Mikke Pierson, Mayor
Members of the City Council
City of Malibu

Re: September 14, 2020 City Council Meeting - Agenda Item 4.A. – Objections to Proposed Short-Term Rental Ordinances

Dear Mayor Pierson and Members of the City Council:

This firm represents MB Surf (DE), LLC, owner of the property located at 22648 Pacific Coast Highway, and MB Sand (DE), LLC, owner of the property located at 22640 Pacific Coast Highway, in the City of Malibu. I write to convey objections to proposed Ordinance Nos. 468 (for interim enforcement) and 472 (for permanent restrictions), and to highlight legal flaws with the proposed ordinances that would render them invalid if enacted.

Please also refer to my previous letter submitted to you on August 10, 2020.

1. The Interim Enforcement Ordinance (No. 468).

My clients support strong code enforcement and the elimination of "party houses" and similar misuse of short-term rental properties. We appreciate the changes made to the proposed text of Ordinance No. 468 by staff subsequent to the August 10, 2020, City Council meeting in order to more narrowly limit the scope of the interim ordinance to matters of enforcement.

The draft "enforcement only" ordinance, however, still contains some unlawful provisions that should be deleted. Our remaining concerns with Ordinance No. 468 include the following:

- Occupancy Limit. Proposed Malibu Municipal Code Sec. 17.55.020(A)(8) imposes on short-term rentals an occupancy limit of two persons times the number of bedrooms plus two other persons. But this limit does not apply to other renters or homeowners, in potential violation of California's fair housing laws, the Unruh Act, and other statutory and constitutional provisions of state law.

- Invasion of Privacy. Proposed Sec. 17.55.020(A)(6) requires each owner to "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 her/his designee for purposes of inspection or audit." This sweeping infringement of the privacy rights of owners and occupants is unconstitutional, providing not even the minimal protections afforded in the inspection warrant

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statute for use by building and zoning code inspectors who have adequate cause to seek an inspection warrant from the courts. *See* Code Civ. Proc. §§ 1822.5 et seq.

- Non-transferability. Proposed Sec. 17.55.010(H) provides that "[a] short-term rental permit may not be assigned or transferred to another person." As explained at length in my letter of August 10, 2020, and at further length below, a permit allowing for the "use of property in a particular manner is not personal to the owner at the time of the grant, but is available to any subsequent owner…." *Cohn v. Cty. Bd. of Sup'rs of Los Angeles Cty*. (1955) 135 Cal. App. 2d 180, 184. In other words, such permits must "run with the land[.]" *Cty. of Imperial v. McDougal* (1977) 19 Cal. 3d 505, 510; *accord Sounhein*, 47 Cal.App.4th at 1187; *Anza Parking Corp*., 195 Cal.App.3d at 858.

- Discriminatory Treatment of Owners vs. Renters. Proposed Sec. 17.55.010(A) provides that only an "owner" of property may obtain a short-term rental permit. This arbitrary distinction between owners and renters is discriminatory and without evidentiary basis. (See further discussion below with reference to the permanent ordinance.)

If these four remaining concerns were addressed, our clients would support the adoption of Ordinance No. 468 as an aid to enforcement.

2. The Permanent Ordinance (No. 472).

Staff has corrected one deficient aspect of the proposed "permanent" ordinance, but serious legal defects remain.

As we advocated in our August 10, 2020 letter, staff now recommends that the short-term rental use restrictions be processed via an LCP amendment with Coastal Commission review. That is an important procedural step. Our other objections we raised have not been addressed, however, and we continue to view the proposed permanent ordinance as legally flawed and subject to invalidation if enacted.

a. Inconsistency with Coastal Act Policies.

Proposed Ordinance No. 472 would remove hundreds of currently permitted STRs from the City by, among other provisions: (i) prohibiting the short-term rental of single-family homes and condos that are not the owner's primary residence; (ii) requiring the owner or owner's representative to cohabit with the guest and remain living at the residence throughout the duration of the short-term rental; and (iii) allowing only two units in a multifamily complex to be used as short-term rentals. An analysis by the leading online booking platform Airbnb concluded that fully half the short-term rentals in the City of Malibu would be eliminated by the prior version of this ordinance (considered at the Council August 10, 2020 meeting), under which *both* primary and non-primary resident STRs would have been permitted. (*See* letter to Malibu City Council from John Choi, Airbnb Policy Manager dated August 7, 2020.) The removal of any non-primary resident STRs from this version of the ordinance will undoubtedly cause an even more dramatic reduction in the availability of short-term rentals in Malibu.

The Coastal Act specifies that cities shall protect and encourage lower cost visitor and recreational facilities including hotels, motels "or other similar visitor-serving facility located on either public or private lands." Pub. Res. Code § 30213. The City's LCP expressly incorporates and adopts this policy. *See* LUP, Ch. II.D. Property rentals in Malibu are generally more expensive than in other cities, and STRs provide one of the

least expensive forms of overnight accommodation available in the City. For example, a moderate-income family can afford to vacation in Malibu by staying at a short-term rental that costs just a few hundred dollars per night, whereas few can afford to purchase a home or rent long-term within the City.

The small number of conventional hotel and motel rooms in Malibu, which we understand to be roughly 100 total rooms *for the entire City*, makes the continued availability of STRs in the City's residential zones vitally important. According to the June 2018 Council Agenda Report, more than 400 private homes and apartments in the City are being utilized at least part of the time as STRs. Reducing this critical supply of overnight visitor accommodations would not be consistent with the Coastal Act or the City's LCP, and an ordinance enacted in violation of the Coastal Act and LCP is invalid and subject to challenge.

b. Non-transferability of Permits.

Proposed Ordinance No. 472 also violates clearly established land use law by relying on permits that are conditioned on the identity of the applicant rather than the use of the land, and because the permits cannot be transferred or assigned. The Government Code provides that "[n]o local government body, or any agency thereof, may condition the issuance of any building or use permit or zone variance on …[t]he dedication of land for any purpose not reasonably related to the use of the property for which the variance, building, or use permit is requested." Govt. Code § 65909. Although permits authorizing a particular use of land may include conditions, the conditions must "relate to the property and not to the particular applicant." *Sounhein v. City of San Dimas* (1996) 47 Cal.App.4th 1181, 1187 (citing *Anza Parking Corp. v. City of Burlingame* (1987) 195 Cal.App.3d 855, 858). *Id*. Moreover, a permit allowing for the "use of property in a particular manner is not personal to the owner at the time of the grant, but is available to any subsequent owner…." *Cohn v. Cty. Bd. of Sup'rs of Los Angeles Cty*. (1955) 135 Cal. App. 2d 180, 184. In other words, such permits must "run with the land[.]" *Cty. of Imperial v. McDougal* (1977) 19 Cal. 3d 505, 510; *accord Sounhein*, 47 Cal.App.4th at 1187; *Anza Parking Corp*., 195 Cal.App.3d at 858.

These are precisely the same bedrock land use principles that led to the invalidation of the formula retail ordinance enacted by the City as part of "Measure R." In that case, the Court of Appeal held in part that the formula retail ordinance was invalid because it relied on permits that depended on "the character of the permittee or applicant rather than on the use of the land." *The Park at Cross Creek, LLC v. City of Malibu* (2017) 12 Cal.App.5th 1196, 1210. The ordinance was also invalid because it restricted the transfer or assignment of the permits, "which is precisely what *Anza* and *Sounhein* held was improper." *Id*. at 1210.

Proposed Ordinance No. 472 continues to suffer from exactly the same flaws. It expressly relies on permits that depend on the identity of the permittee rather than the nature of the use. *See, e.g*., § 17.55.040(A) (limiting single-family STR permits to "primary resident owner[s]"), § 17.55.040 ("Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit."), § 17.55.020(D)(14) (requiring an applicant for a "hosted short-term rental permit" to submit "proof of primary residency and attestation that the location is the owner's primary residence"). In addition, the proposed ordinance prohibits transfer or assignment of the contemplated permits such that they do not "run with the land." *See id*. § 17.55.020(J) ("A short-term rental permit may not be assigned or transferred to another person."). Permits that depend on conditions particular to the identity of the permittee rather than the use of the property, and which do not run with the land, are invalid.

Although Measure R's formula retail ordinance utilized a "conditional use permit" subject to review and approval by the Planning Commission, whereas proposed Ordinance No. 472 employs a non-specific

"permit" subject to review and approval by "the City Manager or his/her designee," these are distinctions without a difference for purposes of the rules above. As the Court of Appeal explained in *Sonheim*, a conditional or special use permit is simply an "administrative permission for uses not allowed as a matter of right in a zone, but subject to approval." 47 Cal. App. 4th at 1187 (citing Cal. Zoning Practice (Cont.Ed.Bar 1996) Types of Zoning Relief, § 7.64, p. 299). That is exactly what Ordinance No. 472 would do: define a particular use—i.e., "short-term rental"—that may not be made as a matter of right, but rather only pursuant to a special permit authorizing such use. Moreover, the rules described above do not depend on the precise type of permit or approval, but instead reflect the general principle that "'zoning conditions and restrictions are designed to regulate the land itself and its use and not the person who owns or operates the premises by whom such use is to be exercised.'" *Anza Parking Corp*., 195 Cal. App. 3d at 859 (quoting *Vlahos Realty Co. v. Little Boar's Head Dist*. (1958) 101 N.H. 460, 463). Accordingly, just like the formula retail ordinance invalidated in the Measure R case, Ordinance No. 472 is "contrary to well-established principles" of California law and would be invalid if enacted.

c. The Ordinance Constitutes an Unreasonable Restraint on Alienation.

Proposed Ordinance No. 472 also constitutes an invalid restraint on alienation. Under California law, "[c]onditions restraining alienation, when repugnant to the interest created, are void." Civ. Code § 711. In determining whether restrictions on the use of a property are reasonable and therefore valid, courts consider: "(1) whether the reason for [the restriction] is rationally related to the protection, preservation or proper operation of the property and the purposes of the Association as set forth in its governing instruments and (2) whether the power [to impose the restriction] was exercised in a fair and nondiscriminatory manner." *Laguna Royale Owners Assn. v. Darger* (1981) 119 Cal.App.3d 670, 684.

Ordinance No. 472 fails both prongs of the legal test. First, the rational relationship test is flunked by virtue of the conflict between the proposed ordinance and the City's LCP (discussed above). Unless the LCP is amended, no measure that significantly reduces the City's primary supply of overnight visitor accommodations can be rationally related to the City's policies. Second, the second prong is failed because Ordinance No. 472 unfairly discriminates in numerous ways, including between rental terms of varying lengths (i.e., terms of 30 days or less, 31-364 days, and 365+ days), between "primary residents" and other persons, between natural persons and corporate entities, between owners of one property and owners of multiple properties, between owners and renters, and between different types of multifamily properties (discussed below). For example, under the proposed ordinance:

- Primary residents who own and live in a house or condo may obtain an STR permit, while non-primary residents who own and live in a house or condo may not.
- Primary residents who own and live in a house or condo may obtain an STR permit, while primary residents who rent and live in a house or condo may not.
- Multifamily property owners who lease all other units in a building on terms of one year or more may obtain an STR permit, while multifamily owners who lease units on month-to-month terms may not.
- Natural persons may obtain an STR permit, while trusts, partnerships, LLCs and corporations may not.

This inconsistent and discriminatory application of the City's power renders Ordinance No. 472 invalid as an unreasonable restraint on alienation.

d. The Ordinance is Also Invalid Under Numerous Other Provisions of Federal and State Law.

Neither the draft ordinance nor the agenda report provides factual support for the discriminatory provisions described above. Indeed, it is hard to even imagine how, for example home-sharing STRs conducted by owners of a second home (i.e., a non-primary residence) who live onsite for the duration of the guest stay are any more or less problematic for the community than home-sharing STRs conducted at a "primary residence." Similarly, there does not appear to be any justification for authorizing condos to be 100% occupied by STRs while limiting apartment buildings to two STR units, irrespective of size. Such provisions violate state and federal due process and equal protection, and other constitutional provisions.

Ordinance No. 472 also contains numerous other provisions that appear to run afoul of federal law, state law or both. Simply by way of example:

- The rules governing multifamily properties allow up to two units in a building, but only so long as all other units are rented for a period of one year or more. *See* § 17.55.040(B). This does not account for periods of vacancy between tenancies when some units may not be rented, or when units are vacant due to the need for repairs, having been rendered uninhabitable by casualty loss, etc. This constitutes an unreasonable and therefore unlawful restraint on alienation.

- The ordinance imposes an occupancy limit of two persons times the number of bedrooms plus two other persons, but does not apply to other renters or homeowners, in potential violation of California's fair housing laws, the Unruh Act, and other statutory and constitutional provisions.

- The proposed ordinance requires each owner to "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 her/his designee for purposes of inspection or audit." § 17.55.010(A)(11). This unchecked and unlimited infringement of the privacy rights of owners and occupants is unconstitutional, providing not even the minimal protections afforded in the inspection warrant statute for use by building and zoning code inspectors who have adequate cause to seek an inspection warrant from the courts. *See* Code Civ. Proc. §§ 1822.5 et seq.

This letter is not intended as a complete or comprehensive statement of all of the facts or law relevant to the validity of proposed Ordinance No. 472. Rather, it is intended to convey objections to the proposed ordinance and examples of numerous legal flaws from which it suffers, and which will almost certainly lead to costly legal challenges if it is enacted.

Sincerely,

Marshall A. Camp

cc: Christi Hogin, City Attorney (via e-mail)

SRT for Mult-Family owners who live on site

marcman31881 [redacted]

Mon 9/14/2020 11:33 AM

To: City Council <citycouncil@malibucity.org>



Short Term Rentals for Multi-Family,

Thank you to all the city council members that took the time to chat with me over the last month or so concerning short term rentals. As many of you have told me, my short term rentals at my Multi family building are not the problem.

I live on Malibu Road and own a 4 unit building. I use one of the units as my primary residence, rent out 1 unit on a long term basis to a local Malibu business owner, and I rent out the other 2 unts on short term rentals. I have not had one complaint from my neighbors, code enforcement, or my long term tenants in the building. My long term tenant even sent in testimony to the council on how SRT do not negatively impact her. Her rent stays flat, she gets cleaning service, new appliances, new laundry machines, and one of the best kept buildings on Malibu Road.

I ask that when you vote tonight you consider those residents like me that use their multi-family building as their primary residence that you let us have more than 1 unit for short term rentals. 2 versions of the proposed ordinance let us have 2 units, the one the planning commission worked on only allows us 1 unit. Having 1 unit is not fair when we have had no problems. If I the owner is onsite, I would never allow parties, events, or large number of guests. Please only consider allowing us to have 2 or more units for Short Term rentals in Multi-family buildings.

thank you
--
Marc Man

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Meeting Date 9/14/20
Agenda Item # 4A

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Short Term Rentals. Council Meeting 9/14/2020

Norman Jarrett [redacted]

Sun 9/13/2020 3:29 PM

To: City Council <citycouncil@malibucity.org>

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/14/20
Agenda Item # 4A

Dear Mayor and City Council Members,

I recently learned that Michael Lustig made compelling representations to the Planning Commission and City Council on the subject of short term rentals and played a pivotal roll in shaping the proposed legislation. He did so purporting to be acting on behalf the Malibu Road Home Owners Association. No surveys, questionnaires, polls, public hearings or any other type of enquiry was undertaken to determine the sentiment of the majority of home owners on the street. He did not have the authority to act in his stated capacity and as such, misled both the Planning Commission and the Council.

Mr. Lustig is obviously aware of the significant influence that the Malibu HOA has in the City and has used it to further his own interests and those of his supporters.

My family has owned property on Malibu Road for over 17 years and believe that our property rights have been hijacked. I know that we are not alone and suggest that a comprehensive poll (preferably a vote) be undertaken throughout the City to determine the actual support for this far-reaching Ordinance.

A few other thoughts for your consideration:

Our home has been rented, from time to time, to short term occupants over the past 8 years (without a single complaint of which we are aware). We want to retain that right and at the very least, suggest grandfathering in the ability to continue doing so, as in all similar cases where this has been the practice for 5 years or more.

Timing could not be worse. The adverse fiscal impact on the City, merchants, restaurants, etc. and by extension, landlords due to COVID, has in many cases been devastating. Implementing the proposed Ordinance now will make the situation worse.

From experience, many of our guests could not afford the time or the money to stay for longer than a couple of weeks. The Ordinance would eliminate those families from enjoying Malibu and spending their discretionary resources in our City.

Having the landlord in the room next door is a complete turnoff for most vacationers and conversely, we certainly do not want to live in the house occupied by strangers.

There are other ways to control bad behavior for short AND long term vacationers without resorting to this type of legislation.

The proposed Short Term Rental Ordinance is ill-conceived, impractical and will cost the City a lot of money to implement. It is not just restrictive, it is destructive .

Please Vote NO.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/20 Agenda File

Thank you,

Norman Jarrett

Kelsey Pettijohn

Subject: Support Non-Hosted STRs



From: Natalie Kouzouyan [redacted]
Date: September 10, 2020 at 1:13:27 PM PDT
To: Karen Farrer <kfarrer@malibucity.org>
Subject: Support Non-Hosted STRs
Reply-To: [redacted]

Dear Councilmember Karen Farrer,

I encourage you to reconsider the ban on whole home vacation rentals in Malibu.

The pros outweigh any and all cons.
1) There is the tot tax benefit- the city is generating millions in tot tax yearly which pays for our city to sustain it's beautiful neighborhoods etc. to take that away shoddy mistake.
2) The vacationers and tourists (who are paying top dollar) are keeping the poor businesses alive in Malibu. As a Malibu local I know that no locals shop In Malibu and or dine out infrequently. The tourists who come into town are keeping the local businesses alive.
3) Amidst the pandemic, non-hosted whole home vacation rentals are much safer than those which require the host to be in close proximity to the travelers. How could you be pushing this dangerous idea during a pandemic??
4) A ban on whole home rentals would force many property owners to sell homes they use to cover the mortgage and provide income for their families. My family has lived in Malibu for 25 years... you guys prefer to bring in who knows what to the community? Doesn't make sense in trying to "preserve the community"
5) stopping vacation rentals in Malibu will not stop beach goers in the summer so it will only increase traffic and increase accidents and death on the pch.
6) honestly- I would worry about the homeless enchantments and homeless trailers on pch over vacation rentals. It's quite ridiculous that the city officials are more concerned with vacationers who are coming to town, paying money, paying taxes and spending money and dining in our town- than with the homeless problem.
7) It is extremely reckless to consider the ban because of a few complainers (whom by the way are soooooo old... won't be around too much longer) it's detrimental to our community, the city's benefit from tot taxes and the neighborhood businesses and economy. Not to mention our neighbors livelihoods.

This is totally totally a mistake and I feel it's an infringement on my rights. Why not worry about the drug houses and the sober living facilities that brings rift raft into town? Why not worry about the homeless people enchantments?? Why not worry about those real issues than something that the city is benefitting from. It's idiotic to me.

Hopefully you make the right decision.

Regards,
Natalie Kouzouyan
[redacted]

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To: Members of the City Council
From: Malibu Coalition for Slow Growth by Patt Healy
Re: Item 4A
Date: September 14, 2020

Honorable Members of the City Council

MCSG urges the Council to make the following changes in the proposed STR ordinance in order to have a livable community for its residents.

1.Allow each property to have only one short term rental unit. In no event should guest houses be allowed for STR's. To allow this is short sighted.

An earlier agenda item's staff report states Malibu for its affordable housing 6th cycle will have to designate 78 new units between 2021 and 2029 . To avoid the need for more dense/ intense development guest houses should be allocated for that purpose as they have been done successfully in the past.

State Law requires the city allow Accessory Dwelling Units (ADU's). And a precovid staff report recommended guest houses be converted to ADU's to meet this State requirement. If they were converted to ADU's this also would meet the affordable housing requirement. Having guest houses as STR's defeats 2 solutions to requirements imposed on Malibu by outside agencies and prevents more intense development

2. Require all short term renters to park on site. If they can't meet this requirement, they should car pool or use a car service like uber or lift.

3. Require owners to submit annually as proof of residency a property tax bill indicating the property owner has a homeowner's tax exemption on the proposed STR property and at least one other document as proof of residency. Have an owner declare annually it is their primary residence. This is needed to discourage investors from purchasing our housing stock and turning homes into de facto hotels in residential zones.

4. Add a limit on the number of days a year a residence can be rented short term.

5. All STR complaints have to investigated by city and citations given. If the complaint is by a neighbor or a tenant in an apartment building and if they have to identify themselves many people will be hesitant to complain to not subject themselves to harassment or retaliation by the STR owner.
Policy 43 is a very unique and a poor governing Policy and needs to be changed. We know of no other city that has this policy and the Coastal Commission doesn't require it either.

Thank you for considering our comments.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/2020 Agenda File

Allen Matkins

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law
865 South Figueroa Street, Suite 2800 | Los Angeles, CA 90017-2543
Telephone: 213.622.5555 | Facsimile: 213.620.8816
www.allenmatkins.com

Patrick A. Perry
E-mail: pperry@allenmatkins.com
Direct Dial: 213.955.5504 File Number: 390495-00001/LA1219540.02

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Agenda Item # 4A

Via Electronic Mail

September 10, 2020

Mayor Mikke Pierson
Mayor Pro Tem Skylar Peak
Councilmember Karen Farrer
Councilmember Rick Mullen
Councilmember Jefferson Wagner
City of Malibu
23825 Stuart Ranch Road
Malibu, California 90265

Re: Short Term Rental Ordinance

Dear Mayor Pierson and Members of the City Council:

This firm has been retained to assist Pacific Coast Management, LLC, which manages, and serves as the agent for several owners of, multiple properties located seaward of Pacific Coast Highway which are currently developed with multifamily residential structures that are currently rented to the public on a short term basis for periods of less than 30 days, and for which the owners pay transient occupancy taxes to the City in connection with such rentals. Our firm has been retained to address, and oppose if necessary, the proposed ordinances to amend the Malibu Municipal Code and Local Coastal Program ("LCP") to regulate short term rentals at the meeting scheduled for September 14, 2020. We previously submitted a letter dated August 10, 2020, opposing adoption of the proposed interim ordinance to regulate short term rentals on the grounds that, among other things, any restrictions on the existing use of residential property for short term rental are not permissible absent certification by the Coastal Commission of an amendment to the City's LCP. Our letter of August 10, 2020 and the concerns expressed therein are incorporated by reference in their entirety herein and apply equally to the Planning Commission's recommendation that an amendment to the LCP is not required in connection with the regulation of short term rentals.

In addition to the concerns expressed in prior correspondence, we respectfully request that you modify the proposed ordinances to exclude properties currently developed with multi-family residential structures located on beachfront properties from additional regulation. The amendments should also provide that properties not located in the MF zone but which are on the beachfront and

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developed with legal nonconforming multi-family residential uses should also be permitted to obtain permits to rent existing residential units on a short term basis.

To comply with the Coastal Act, and the requirement to preserve and maintain visitor serving uses within the Coastal Zone, there should be no restriction on the number of units that may be rented on a short term basis on beachfront properties that are currently developed with multi-family residential buildings. Rental of beach front dwellings, guest houses, and multi-family units on a short term basis has been occurring in Malibu and other beachfront communities for years without negative impacts. These properties are located in proximity to other multi-family residential properties or to commercial properties. The rental of units on such properties on a short term basis will therefore not result in the types of noise and traffic issues associated with the short term rental of properties located in proximity to predominantly single family residential neighborhoods elsewhere in the City. Nor will allowing the short term rental of residential units on beachfront properties detract from the City's available lower cost housing stock because units located on beachfront properties invariably rent for considerably higher rates than elsewhere in the City and are clearly not even close to being able to be considered affordable to lower or moderate income households.

Short-term rental of these beachfront multi-family units is, however, far more affordable than the limited number of beachfront hotel rooms in Malibu. Multi-family units are also more desirable to much of the general public, not only because they are more affordable than hotel accommodations, but because they have separate rooms and provide full kitchens with full size appliances giving families the ability to prepare family meals and care for smaller children and seniors at a far more affordable rate than room service. The only ocean front hotel room that comes close to providing the amenities offered in a short term multi-family rental unit on the beach in Malibu would be a hotel suite, of which there are only a handful, and the cost of which is $1,000 to over $3,000 a night--and even they do not have full kitchens.

Short term rental of units on beachfront lots also contributes to the City's revenue stream through transient occupancy taxes which the City desperately needs, especially at a time when the City is incurring additional expenses in connection with rebuilding following the Woolsey Fire and efforts to combat the spread of COVID-19.

In addition to the concerns expressed above, we also request that you delay any action regarding the proposed ordinance and amendment until after the end of the current state of emergency due to the COVID-19 pandemic in order to allow those who are impacted to have a meaningful opportunity to engage in the discussion of an issue of this magnitude. Due to current requirements for isolation and social distancing, many people are unable to focus on an issue of this importance or lack the technological ability to participate in virtual meetings. Rushing the proposed ordinance and LCP amendment through during this crisis is unfair to members of the public who

enjoy the availability of beach front short term rentals in Malibu and who would otherwise be available to voice their opposition.

Your careful attention to this matter is greatly appreciated. Please contact me with any questions or if I can provide additional information with regard to these issues.

Very truly yours,



Patrick A. Perry

PAP

cc: Ms. Reva Feldman
Ms. Bonnie Blue
Christi Hogin, Esq.

expedia group™

September 14, 2020

Malibu City Council
c/o: Heather Glaser, City Clerk
23825 Stuart Ranch Road
Malibu, CA 90265
email: hglaser@malibucity.org

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Office of the City Clerk
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Dear Mayor Pierson and Honorable Members of the City Council:

On behalf of Expedia Group, a family of travel brands including vacation rental leader Vrbo, thank you for the opportunity to comment on the proposed ban on unhosted vacation rentals in Malibu. The proposal as currently drafted unnecessarily overreaches the issues Malibu seeks to address and in the process violates requirements to preserve affordable accommodation in Malibu's Coastal Zone. We urge you to defer further consideration and work with Expedia Group and other local stakeholders to craft sustainable, balanced regulations that meet Coastal Zone requirements.

The proposal before Council attempts to address nuanced and complex issues through a blunt policy by banning outright unhosted, traditional vacation rentals which have been part of Malibu's communities and tourism ecosystem for generations. This will have significant and unnecessary negative impact on Malibu's tourism economy. As an alternative, we invite you to work with Expedia Group to discuss regulatory options and compliance tools that can help meet community need while protecting property rights and preserving affordable accomodations throughout the city for traveling families.

Platforms like Vrbo can be valuable partners in driving a high rate of compliance with nuanced, forward-thinking vacation rental regulations. In many California cities, platforms connect with City databases to automatically remove any listing bearing an invalid or revoked permit number in real time. This process of noncompliant listing removal could help Malibu eliminate any loopholes or workarounds for operators whose permits have been suspended or revoked, driving a high rate of compliance with regulations that meet community need while taking problematic listings off the market at relatively low cost to city enforcement programs.

Additionally, we would be grateful to explore a Voluntary Collection Agreement to collect and remit transient occupancy taxes generated by vacation rentals on Expedia Group platforms, ensuring a robust, reliable, easily administered revenue stream for Malibu. Vacation rentals provide critical economic and revenue streams to Malibu, and we look forward to helping the city maximize their value.

With the opportunity in mind, we respectfully urge you to consider the proposed regulations' inconsistency with Coastal Zone requirements to preserve affordable transient accomodations. Put simply, the proposed ordinance would devastate the availability of vacation rentals, in turn significantly limiting the lodging options available to traveling families and drastically increasing costs. This unnecessarily heavy-handed proposal eliminates accomodations that have provided tens of thousands of booked room nights in Malibu, driving down supply to a small fraction of demand and increasing the cost of a visit to Malibu.

While City materials claim the opposite, they provide no data to support this position and leave serious doubt as to this proposal's compliance with Malibu's mandate to protect affordable transient accomodations "to the maximum feasible extent."

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/20 Agenda File

Thank you for taking the time to conduct a detailed, thorough analysis of the regulatory options available to Malibu, their consequences, and their consistency with Coastal Zone requirements. While the current proposal does not meet the standard for sustainable and balanced public policy, we encourage you to work with us to explore the compliance and partnership opportunities above and stand ready to discuss reasonable, responsible limits on vacation rental licenses as part of a balanced regulatory package.

Please feel free to contact me with any questions at rilazaro@expediagroup.com or 206-660-8227. We appreciate your partnership and leadership through this challenging time.

Sincerely,

Richard de Sam Lazaro
Senior Manager, Government and Community

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CITY OF MALIBU

STR's

Richard Lawrence [redacted]

Mon 9/14/2020 5:09 PM

To: City Council <citycouncil@malibucity.org>

Dear Council, I lived in Malibu from 1970-1972 when Malibu was a laid back community. From that experience I thought the world of this city. At that time there were no possibilities to install sewers. I guess that has expired. In conversation we discussed that the reason we didn't want sewers was because that would open up large scale hotels, motels, and other buildings which would not keep the spirit alive. Possibly the Council could ban STR's that rent for less than 30 days. We have been told that the city has depended on TOT which will throw off less money if the STR's are limited. The fact that these situations exist in a city of 13,000 people must be stopped. I can see the largest properties constructing large homes with STR's to make more money. We should adopt the position that Santa Monica has taken on STR's. The fact that policing these entities will be sub-standard I wonder how anyone will get the feeling that rentals of less than 30 days should have the right
to make noise, litter, do drugs, park cars in non-parking locations, and lower the quality of life in Malibu. We need this ordinance or eventually the amount of construction will increase as the public, or large corporations, buy these homes. Please do not let this happen.
Best,

Richard Lawrence
[redacted]

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Kelsey Pettijohn



Subject: Short Term Rental ordinance

From: Rena Patterson [redacted]
Sent: Monday, September 14, 2020 3:55 PM
To: Karen Farrer <kfarrer@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Skylar Peak <speak@malibucity.org>; William Patterson [redacted]
Subject: Short Term Rental ordinance

Hi there,

We would like to express our gratitude to you all for trying to put some controls on Short Term Rentals in Malibu. We can't participate in the virtual meeting tonight.
There's a house next door rented out by Airbnb, and they have loud parties, people wander the neighborhood after drinking, sometimes walking onto our property. The owners don't care and don't live in Malibu. This is a second home used for profit.

As you know, Airbnb is a problem everywhere. These aren't owners on site renting out a room. They are commercial enterprises, hotels in zoned residential neighborhoods, who don't abide by labor and environmental laws, and unlike hotels, they don't have to provide for wheelchair access, etc, per the ADA.

Mammoth Lakes ruled that single family homes could not be rented out for less than 30 days. Yes, they have condos for people to rent, but that shouldn't matter. We are a small community, peaceful, and all stressed after the Woolsey Fire. We do not need the noise, massive mansion parties, uptick in crime and stress that comes with living next to an Airbnb house.

Any controls you can put in place regarding these commercial hotels will be greatly appreciated.

Thank you,

Rowena Patterson
William Patterson
[redacted]

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Kelsey Pettijohn

Subject: Support Non-Hosted STRs



From: Randy Sanders [redacted]
Sent: Thursday, September 10, 2020 12:55 PM
To: Mikke Pierson <mpierson@malibucity.org>
Subject: Support Non-Hosted STRs

Dear Mayor Mikke Pierson,

I encourage you to reconsider a possible ban on whole home vacation rentals in Malibu.

Amidst the pandemic, non-hosted whole home vacation rentals are much safer than those which are hosted and require the host to be in close proximity to the travelers.

In addition, a ban on whole home rentals would force many property owners to sell homes they use to cover the mortgage and provide income for their families.

Regards,
Randy Sanders
[redacted]

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Heather Glaser

From: Scott Dittrich [redacted]
Sent: Sunday, September 13, 2020 10:04 AM
To: Rick Mullen; Skylar Peak; Jefferson Wagner; Karen Farrer; Mikke Pierson; Heather Glaser
Subject: Re: Re Item 4A, Short-Term Rental Ordinance

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Dear Council,

A couple of thoughts.

1. Guest houses typically have kitchens and are separate living units. As long as the owner lives in the main house, they should be allowed for STRs.
2. I agree with Planning Commission that anonymous complaints should be investigated. Or, better, the person complaining should give their name to the code enforcement officer with the agreement that that name not be revealed – obviously to avoid retribution.
3. Under multifamily, I think 40% is much too generous. It should be more like 10%.

The ordinance should state that this policy will be reviewed in three years so that everyone knows that STRs could be further limited if we find the impact too severe. We are trying to balance the rights and needs of homeowners with the impact on our community. Every unit turned into a STR means one less person/family who does not participate in our public discourse, use our schools and libraries, so I appreciate the care you all are taking in this.

Scott Dittrich
Ps. Why does staff always focus on money flowing to the City rather than preserving our neighborhoods and schools?

From: K Hill [redacted]
Date: Saturday, September 12, 2020 at 6:06 PM
To: "rmullen@malibucity.org" <rmullen@malibucity.org>, "speak@malibucity.org" <speak@malibucity.org>, "jwagner@malibucity.org" <jwagner@malibucity.org>, "kfarrer@malibucity.org" <kfarrer@malibucity.org>, Mikke Pierson <mpierson@malibucity.org>, Heather Glaser <hglaser@malibucity.org>
Subject: Re Item 4A, Short-Term Rental Ordinance

Dear Council members,

Please find my latest comments on STR's attached.

Best,
Kraig

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Short Term Rentals

Solange Willems [redacted]

Mon 9/14/2020 4:45 PM

To: City Council <citycouncil@malibucity.org>

Dear City Council Members,

I am writing to urge you to please ban short term rentals from residential areas of Malibu.

Presently on my street, our neighbors and I are subject to overflowing trash cans and cars parked every which way because of a short term rental that has CONSTANT turnover.

Normally we would be able to contact the homeowner or neighbor and be dealt with in a neighborly fashion but some people don't care about their neighbors and sadly this is the case on our street.

The house in question was purchased as a rental property and is pimped out on a regular basis with a 3 day minimum. Trash overflowing, cars blocking the entrance to our street making turning off the highway truly dangerous at times if you're traveling East and making a right turn…it's a mess.

Please help!

Either we need regulation OR we need enforcement. This takes "resident" out of residential neighborhood. Please protect our residents homes & streets.

I appreciate your service to our community.

Respectfully, Solange Willems

[redacted]

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Kelsey Pettijohn

Subject: Support Non-Hosted STRs



From: Tom Villante [redacted]
Date: September 10, 2020 at 12:47:43 PM PDT
To: Karen Farrer <kfarrer@malibucity.org>
Subject: Support Non-Hosted STRs
Reply-To: [redacted]

Dear Councilmember Karen Farrer,

I encourage you to reconsider a possible ban on whole home vacation rentals in Malibu.

Amidst the pandemic, non-hosted whole home vacation rentals are much safer than those which are hosted and require the host to be in close proximity to the travelers.

In addition, a ban on whole home rentals would force many property owners to sell homes they use to cover the mortgage and provide income for their families.

Regards,
Tom Villante
[redacted]

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Heather Glaser

From: Walt Keller [redacted]
Sent: Sunday, September 13, 2020 12:12 PM
To: Heather Glaser
Subject: Item 4A City Council meeting 9/14/20 short term rentals

Please distribute the following to all City Council members.

Dear City Council members. We are adamantly opposed to allowing short term rentals in residential zoned neighborhoods. As you have heard over and over again this use of a residential property causes extreme problems for neighbors. Enforcement of regulations has proven almost impossible. This is especially true when the property is owned by a corporation that use the property only for short term rentals. It is very hazardous to have people unaware of the fire danger and who have no concern for the community using the property short-term. Many of Malibu's neighborhood streets are narrow and don't allow space for parking even for the residents much less short term tenants. Emergency vehicles and service trucks often cannot get beyond a parked car. The purpose of zoning is to preclude incompatible use of an area. This is a commercial use NOT residential. Malibu's General Plan and LIP provide zoned properties in commercial zones for short term rentals (Motel/hotel). Malibu's residents have the right to "quiet enjoyment of their property". If an owner wants to use property to make money they should purchase property in a commercial zone. Walt and Lucile Keller

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Kelsey Pettijohn

Subject: Short Term Rental ordinance

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From: William Patterson [redacted]
Sent: Monday, September 14, 2020 4:33 PM
To: Karen Farrer <kfarrer@malibucity.org>
Cc: Rick Mullen <rmullen@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Skylar Peak <speak@malibucity.org>; rena Patterson [redacted]
Subject: Re: Short Term Rental ordinance

Hello

Bill Patterson here chiming in on my wife Rena's note.

I would also like to point out that allowing for the short term rental of our properties creates a changing economic structure operating at scale for living in Malibu.

We have lived in Malibu Park for 25+ years and of course were super dismayed at the influx of rehab houses. These houses bring in well over 100K per month for their owners. Therefore, and especially since one needs zero qualifications to start one, why is anyone surprised how many there are ? Horizon had 7 on one street before Woolsey !

AirBNB is the same thing - not quite as lucrative as getting 50K for one pee sample - but still very lucrative. This changeover of our neighborhoods into Rehab and AirBNB locations simply means fewer and fewer families can move here and send their kids to school here. We all see it happening and it feels like slow motion but it really is not. Even before Woolsey we noticed very few kids in all of Malibu Park. If you can make 30K to 150K per month on your house why would our prices stay in the range that a family can afford? The answer is they won't and we will rapidly become a neighborhood / community that is not really a neighborhood or community. These "town council" meetings you are hosting will be full of caretakers and lobbyists for AirBNB. So soon this council will just be mouthpieces for those industries. Today I literally see one single family with kids from Harvester up to Cuthbert and over to Busch. That is the number roughly now as the neighborhood residents are aging out and Woolsey threw more gas on that problem. Will the homes being rebuilt actually have a few kids in them?

Woolsey has accelerated this process by squeezing inventory and incentivizing the owners of the new re -built homes to either sell or take the money from one of these rehab / AirBNB options.

This debate is on a par on the dumb scale of allowing overnight camping above residential neighborhoods in our fire zone. That decision is so stupid it's hard to believe we could do something that wrong again that quickly but here we are…. It's hard to believe this is even up for debate since we just rebuilt a school down the street? Where does anyone think these kids will come from for the school? What young family can buy a 3-4 bedroom house for $ 3-5M? Maybe super rich young people who see Malibu usually as a weekend place like it's always been for the ultra wealthy. Will they send their kids here ?

I'm sure AirBnb lobby money will rule the day but this is one resident begging to eliminate short term rental of our

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 9/14/20 Agenda File

neighborhoods, (and rehab homes!), or Malibu will quickly not be a community and will simply be a resort with some beautiful “rehab homes “ scattered amongst the AirBNB rentals. At some point everyone will take the money and run.

Thank You,

Bill Patterson

> On Sep 14, 2020, at 3:55 PM, Rena Patterson [redacted] wrote:
>
> Hi there,
>
> We would like to express our gratitude to you all for trying to put some controls on Short Term Rentals in Malibu. We can't participate in the virtual meeting tonight.
> There's a house next door rented out by Airbnb, and they have loud parties, people wander the neighborhood after drinking, sometimes walking onto our property. The owners don't care and don't live in Malibu. This is a second home used for profit.
>
> As you know, Airbnb is a problem everywhere. These aren't owners on site renting out a room. They are commercial enterprises, hotels in zoned residential neighborhoods, who don't abide by labor and environmental laws, and unlike hotels, they don't have to provide for wheelchair access, etc, per the ADA.
>
> Mammoth Lakes ruled that single family homes could not be rented out for less than 30 days. Yes, they have condos for people to rent, but that shouldn't matter. We are a small community, peaceful, and all stressed after the Woolsey Fire. We do not need the noise, massive mansion parties, uptick in crime and stress that comes with living next to an Airbnb house.
>
> Any controls you can put in place regarding these commercial hotels will be greatly appreciated.
>
> Thank you,
>
> Rowena Patterson
> William Patterson
> [redacted]
>

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
SEPTEMBER 14, 2020
TELECONFERENCED - VARIOUS LOCATIONS
6:30 P.M.

The following meeting was held pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

REGULAR SESSION CALL TO ORDER

Mayor Pierson called the meeting to order at 6:31 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Mayor Mikke Pierson; Mayor Pro Tem Skylar Peak; and Councilmembers Karen Farrer, Rick Mullen, and Jefferson Wagner

ALSO PRESENT: Christi Hogin, City Attorney; Reva Feldman, City Manager; Heather Glaser, City Clerk; Jesse Bobbett, Community Services Director; Bonnie Blue, Planning Director; Rob DuBoux, Public Works Director; Trevor Rusin, Assistant City Attorney; Deputy City Attorney Nathalie Camarena; Kelsey Pettijohn, Deputy City Clerk; Elizabeth Shavelson, Assistant to the City Manager; Kristin Riesgo, Community Services Deputy Director; Justine Kendall, Associate Planner; and Susan Dueñas, Public Safety Manager

PLEDGE OF ALLEGIANCE

Mayor Pierson led the pledge of allegiance.

APPROVAL OF AGENDA

MOTION Councilmember Mullen moved to approve the agenda.

FRIENDLY AMENDMENT

Mayor Pierson amended the motion to also continue Item Nos. 3.B.7. and 3.B.8. to a date uncertain.

Councilmember Mullen accepted the amendment, and Mayor Pro Tem Peak seconded the amended motion. The question was called, and the amended motion carried unanimously.

REPORT ON POSTING OF AGENDA

Deputy City Clerk Pettijohn reported that the agenda for the meeting was properly posted on September 4, 2020.

ITEM 1 CEREMONIAL/PRESENTATIONS

None.

ITEM 2.A. PUBLIC COMMENTS

Lori Kantor was not present at the time of the hearing.

Lynn Norton requested Item No. 4.A. be moved up in the meeting.

Bruce Silverstein discussed exclusion of Alia Ollikainen from the November 3, 2020 ballot. He discussed the Bell property and his appeal to the California Coastal Commission and stated the property should have been remediated a year ago regardless of his appeal.

Lance Simmens discussed traffic congestion. He stated the Chili Cookoff/Ioki lot should be opened for weekend parking to relieve congestion and increase safety on Pacific Coast Highway (PCH).

Nichol McGinley stated an ordinance should be adopted that addresses telecom providers bringing 5G into the City.

Hamish Patterson stated the Council should condemn the Black Lives Matter organization. He discussed September 11 and stated there had not been 180,000 deaths attributed to COVID-19 but only 10,000 according to the Centers for Disease Control and Prevention.

Scott Jacobs stated residents on Birdview Avenue and surrounding streets needed speed humps. He questioned whether removable speed humps were a viable option that could be expedited.

Scott Dittrich stated two Los Angeles County Sheriff's Department Deputies were fighting for their lives as a result of Black Lives Matter protesters. He stated Public Safety was the number one priority for Malibu. He discussed fire safety, safety on PCH, and homelessness issues.

Kraig Hill stated the County was on track for installing emergency generators for water pump stations in the Big Rock area. He stated the City needed to push the State to consider guaranteed insurance for fire hardened homes. He stated the City

should fight against State housing density bills for cities with only one main traffic artery. He stated staff was not affording Commission decisions the proper weight. He discussed the need for the Liberty Canyon Wildlife Crossing.

Scott Tallal thanked the Malibu Foundation and City staff for helping to make the August 2020 drive-in movie night a success. He discussed the cost of the event and requested the City waive permit fees, rental fees, and dust mitigation requirements so Malibu Foundation could host another event for Halloween.

Lonnie Gordon, on behalf of Malibu For Safe Tech, discussed the Federal Communications Commission shot clock ticking on 60 or more pending 5G sites within the City. She requested the City listen to experts that were not the current telecommunications firm the City contracted with.

ITEM 2.B. COMMISSION / COMMITTEE / CITY MANAGER UPDATES

City Manager Feldman stated the County of Los Angeles reported 253,985 positive cases of COVID-19, including 101 cases and three deaths in Malibu. She stated the City had issued 137 building permits for Woolsey Fire rebuilds, and eight homes had been completed. She stated September was National Preparedness Month. She stated the City had developed evacuation zones that were numbered 11-14 to avoid confusion with the Topanga evacuation zones numbered 1-10. She reminded the community to update voter registration by October 19, 2020. She stated one temporary generator for the three water pump stations in the Big Rock area had been installed, approval for the second generator was being worked on with the City, and approval for the third site had not been granted by a property owner. She stated she we would work with the neighbors and Los Angeles County Department of Public Works Waterworks Districts to secure a third site. She stated the Civic Center Way Improvements Project was underway and in the staging process. She stated an emergency accessway would be available to first responders and no work would be done on red flag warning days. She stated a Virtual Public Design Meeting for the permanent skate park was held on September 2, 2020. She encouraged community feedback on the Permanent Skate Park Design Survey that would be available on the City's website through October 23, 2020. She stated County beach visitors in August 2020 were tallied at 1.7 million, which was an increase over recent years. She stated the City was tapping into additional County funding for the Beach Team to stay on past the Labor Day holiday due to increased numbers of visitors. She stated City Public Works Department crews were working weekends to perform trash pickup. She announced virtual events scheduled for National Preparedness Month on September 17, 22, 24, 2020. She announced Public Safety staff, Community Emergency Response Team, Arson Watch, and Volunteers on Patrol (VOP) would be out in Malibu neighborhoods on September 26, 2020, to promote fire preparedness. She stated the bid period for the Dume Drive and Fernhill Drive Speed Humps Project closed on September 29, 2020. She

stated 5G matters would be considered again by the Council on September 29, 2020.

In response to Councilmember Farrer, City Manager Feldman stated speed humps for additional streets could be considered as a mid-year budget amendment.

ITEM 2.C. SUBCOMMITTEE REPORTS / COUNCIL COMMENTS

Councilmember Farrer thanked Mr. Jacobs for bringing speeding on Birdview Avenue to the Council's attention. She thanked Mr. Dittrich for his comments on public safety. She stated the City should do what it could to facilitate placement of the remaining water pump station generators in the Big Rock area. She stated she attended a League of California Cities Los Angeles County Division Board of Directors meeting and a School District Separation Ad Hoc Committee meeting. She stated she presented the eighth Certificate of Occupancy for Woolsey Fire rebuilds. She stated she had received many County and State briefings on COVID-19 and wildfires burning throughout the State.

Councilmember Wagner thanked the Malibu Democratic Club for hosting a Malibu City Council Candidates Forum. He thanked Mr. Silverstein for his comments and discussed the Bell property. He discussed the Liberty Canyon Wildlife Crossing and suggested the Council send a letter of support. He thanked Mr. Tallal and indicated support for whatever the City could do to help the Malibu Foundation host another event.

Councilmember Mullen indicated support for another drive-in movie night at the Chili Cookoff/Ioki lot over Halloween.

City Manager Feldman stated staff would check with the County of Los Angeles on whether the drive-in movie use would be allowed under the current COVID-19 regulations. She stated the event could only be held if the County allowed it and she reminded the Council that only six temporary use permits could be issued for the Chili Cookoff/Ioki lot per year.

Councilmember Mullen suggested the Council send a letter of support and appreciation for Los Angeles County Sheriff's Department Deputies that had been recently injured. He thanked Mr. Patterson for his comments.

Mayor Pro Tem Peak indicated agreement with Councilmember Mullen. He suggested nudging the County to allow the City to hold another drive-in movie event over Halloween. He expressed appreciation for the hard work of City staff, first responders, and law enforcement officers working for the City. He stated a resident of the Corral Beach area had reported a home invasion and encouraged the community to report anything that did not seem correct.

Mayor Pierson indicated agreement with Councilmember Mullen. He discussed the possibility of adding to the reward being offered. He stated divisiveness was being experienced nationwide.

In response to Mayor Pierson, Planning Director Blue stated the California Coastal Commission (CCC) had granted the CCC staff request for a one-year extension to work with the City on language changes on the City's pesticide prohibition amendment. She stated the comments on proposed changes generally happened on a staff level.

Mayor Pierson stated Assembly Bill (AB) 1788 had passed.

In response to Mayor Pierson, City Manager Feldman stated she was not aware of whether Governor Newsom has signed AB 1788 yet due to all the wildfire activity. Mayor Pierson thanked Poison Free Malibu. He discussed Malibu Middle and High School Improvements. He thanked Connor Blake for his service as a VOP and wished him well at the Academy. He discussed the importance of fire preparation at a family and neighborhood level. He discussed plans for the permanent skate park and stated it was on track. He discussed the movie night recently held Chili Cookoff/Ioki lot and indicated support for another event. He stated traffic over the Labor Day weekend was the worst the City had ever seen. He indicated support for sending a letter of support for Liberty Canyon Wildlife Crossing and stated he would bring the matter up with Senator Henry Stern. He thanked all the public speakers.

ITEM 3 CONSENT CALENDAR

Item Nos. 3.B.7. and 3.B.8. were continued to a date uncertain upon approval of the agenda.

In response to Mayor Pro Tem Peak, City Manager Feldman stated written comments on Item Nos. 3.B.7. and 3.B.8. would be addressed by City staff and the items would be brought back for consideration at a future meeting.

B. New Items

7. Award Storm Drain Trash Screens Installation Project
   Recommended Action: 1) Authorize the City Manager to execute a construction contract with United Storm Water, Inc. in the amount $17,863.72 for the Storm Drain Trash Screens Installation Project, Specification No. 2077; and 2) Authorize the Public Works Director to approve potential change orders up to 15% of Agreement contract.
8. Award Malibu Bluffs Park Workout Station Project
   Recommended Action: 1) Authorize the City Manager to execute a construction contract with Civic Construction Associates in the amount $40,001 for the Malibu Bluffs Park Workout Station Project, Specification

No. 2088; and 2) Authorize the Public Works Director to approve potential change orders up to 15% of Agreement contract.

Item Nos. 3.A.1., 3.B.11., and 3.B.12. were pulled by the public.

MOTION Councilmember Wagner moved, and Councilmember Mullen seconded a motion to approve the remainder of Consent Calendar, except Item Nos. 3.A.1., 3.B.11., and 3.B.12. The question was called, and the motion carried unanimously.

The Consent Calendar consisted of the following items:

B. New Items

1. Waive Further Reading
   Recommended Action: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.
2. Approve Warrants
   Recommended Action: Allow and approve warrant demand 61218-61338 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 666 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of $1,279,329.30. City of Malibu payroll check number 5119-5121 and ACH deposits were issued in the amount of $215,603.19.
3. Approval of Minutes
   Recommended Action: Approve the minutes for the August 10, 2020 Malibu City Council Regular meeting.
4. Jake Kuredjian Citizenship Award Nomination
   Recommended Action: At the recommendation of the Parks and Recreation Commission, approve the nomination of John Bell and Ellen Reich as the recipients of the 2020 Jake Kuredjian Citizenship Award.
5. Amendment to Professional Services Agreement with Kimley-Horn and Associates, Inc.
   Recommended Action: Authorize the City Manager to execute Amendment No. 3 to the Professional Services Agreement with Kimley-Horn and Associates, Inc. in the amount of $245,000 for additional engineering plan check services to provide Woolsey Fire Rebuild Public Works Services.
6. Acceptance of the 2020 Annual Street Maintenance Project
   Recommended Action: 1) Accept the work performed by Toro Enterprises, Inc. for the 2020 Street Maintenance Project, Specification No. 2078 as complete; and 2) Authorize the Public Works Director to submit for recordation a Notice of Completion.

9. Agreements for the Malibu Inn Motel Project Initial Study
Recommended Action: 1) Authorize the City Manager to execute an Agreement with Wood Environmental and Infrastructure Solutions, Inc. for the preparation of an initial study for the proposed Malibu Inn Motel Project located immediately east of the Malibu Inn at 22959 Pacific Coast Highway; and 2) Authorize the City Manager to execute a Developer Reimbursement Agreement with Surfrider Plaza, LLC.

10. Professional Services Agreement with JHD Planning, LLC
Recommended Action: Authorize the City Manager to execute a professional services agreement with JHD Planning, LLC in the amount of $94,990 for updating the 2021-2029 Housing and Safety and Health General Plan Elements as needed to address state requirements.

The following items were pulled from the Consent Calendar for individual consideration:

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 469
Recommended Action: Conduct second reading, unless waived, and adopt Ordinance No. 469 determining the project is categorically exempt from the California Environmental Quality Act (CEQA) and amending Section 10.19.020 of Chapter 10.19 (Overnight Parking) of the Malibu Municipal Code to create staggered overnight parking restrictions between 12:00 a.m. and 2:00 a.m. and between 2:00 a.m. and 4:00 a.m. daily in the Corral Beach and Zuma Beach areas of Pacific Coast Highway.

Marc Maniscalco stated restrictions would cause additional parking on Malibu Road. He requested the Council consider instating parking restrictions on other ocean front roads in Malibu including Malibu Road and Zuma Beach.

Mayor Pro Tem Peak stated overnight parking restrictions on Malibu Road may not be well-received by the residents.

Assistant City Attorney Rusin read the title of the ordinance.

MOTION

Mayor Pro Tem Peak moved and Councilmember Wagner seconded a motion adopt Ordinance No. 469 determining the project is categorically exempt from the California Environmental Quality Act (CEQA) and amending Section 10.19.020 of Chapter 10.19 (Overnight Parking) of the Malibu Municipal Code to create staggered overnight parking restrictions between 12:00 a.m. and 2:00 a.m. and between 2:00 a.m. and 4:00 a.m. daily in the Corral Beach and Zuma Beach areas of Pacific Coast Highway.

Mayor Pierson indicated agreement with Mr. Maniscalco.

The question was called, and the motion carried unanimously.

B. New Items

11. Certificate of Deposit

Recommended Action: Adopt Resolution No. 20-50 approving the purchase of a Certificate of Deposit with Celtic Bank for a term of eight years.

City Manager Feldman presented the staff report.

Bruce Silverstein questioned why the $250,000 would not be utilized to instead pay down debt service or return the Los Angeles County Measure R transportation funds used to purchase the Island Property. He stated the City did not need additional visitor parking. He questioned why the Celtic Bank was chosen for this CD.

Ryan Embree indicated agreement with Mr. Silverstein. He stated the staff report was not signed. He questioned why the City Treasurer had not signed the report. He stated the Council should not approve the item. He stated he had not seen a current investment policy. He questioned who the City Treasurer was. He stated it was not a good investment.

In response to Councilmember Mullen, City Manager Feldman stated Peter Lippman was the City Treasurer. She stated the Island Property had been purchased with Los Angeles County Measure R transportation related grant funds to create additional parking in the City. She stated there were no call opportunities for the debt service and funds could not be used to pay down or refinance the debt at this time. She stated Mr. Lippman was not well and the City was in the process of finding a new City Treasurer. She stated the quarterly finance investments reports were provided to the Council.

In response to Mayor Pro Tem Peak, City Manager Feldman stated the Certificate of Deposit had been invested at the recommended of the City Treasurer.

MOTION

Mayor Pro Tem Peak moved, and Councilmember Mullen seconded a motion to adopt Resolution No. 20-50 approving the purchase of a Certificate of Deposit with Celtic Bank for a term of eight years.

Councilmember Wager thanked the speakers.

The question was called, and the motion carried 4-1, Councilmember Wagner abstaining.

12. Agreement for the Sea View Hotel Project Initial Study
Recommended Action: Authorize the City Manager to execute a Developer Reimbursement Agreement with Grey Granite, LLC, Las Tunas Beach, LLC, and Sea View Terrace, LLC for preparation of an initial study for the proposed Sea View Hotel Project at 22729 and 22741 Pacific Coast Highway.

Planning Director Blue presented the staff report.

Norm Haynie stated he would pay $35,000 for the initial study. He stated he did not know he would need to have one done. He stated the requirement would further delay the project and its potential benefits for the City. He requested the initial study be expedited. He stated he would pay for any overtime required to complete it soon.

Lynn Norton questioned whether the project could be approved subject to the initial study being completed. She stated it was ironic that Mr. Haynie's property had to be rezoned visitor serving to allow short-term rentals, but the City had to go to the CCC to stop allowing short-term rentals in residential areas.

In response to Councilmember Mullen, Planning Director Blue stated an initial study took six to eight months to complete. She stated Mr. Haynie had submitted several studies, which may shorten the process, but there was still time needed for the public circulation process and staff review. She stated the purpose of CEQA was to disclose potential environmental impacts and mitigation to decision makers and was required to be completed before the project was put before decision makers.

Councilmember Mullen indicated support for the process being expedited as much as possible.

Planning Director Blue stated part of the issue was staffing constraints. She stated she would make sure the consultant knew the Council wanted the project to move quickly.

Councilmember Wagner discussed the project. He stated the initial study was required for the gas station property. He stated he felt sorry for Mr. Haynie and state the project needed to move forward.

In response to Councilmember Mullen, Planning Director Blue stated the gas station property was part of the reason for the initial study. She stated it was a largescale project for the City.

Councilmember Mullen discussed the fuel issues that would need to be studied. He stated he felt sorry for Mr. Haynie.

Councilmember Wagner stated the gas station property seepage had been mitigated for other projects.

Mayor Pierson stated development in Malibu was hard and while the process felt slow it was moving quickly in his experience.

MOTION Councilmember Wagner moved and Councilmember Mullen seconded a motion to authorize the City Manager to execute a Developer Reimbursement Agreement with Grey Granite, LLC, Las Tunas Beach, LLC, and Sea View Terrace, LLC for preparation of an initial study for the proposed Sea View Hotel Project at 22729 and 22741 Pacific Coast Highway. The question was called, and the motion carried unanimously.

RECESS At 8:16 p.m., Mayor Pierson recessed the meeting. The meeting reconvened at 8:26 p.m. with all Councilmembers present.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

A. Short-Term Rental (STR) Regulations (Continued from August 10, 2020)
Recommended Action: 1) Re-open Public Hearing on short-term rental regulations including Zoning Text Amendment (ZTA) No. 17-002 (Ordinance No. 468) from August 10, 2020, and consider the Hosted Ordinance (Ordinance No. 472 and Resolution No. 20-51) and revised version of ZTA No. 17-002, the Enforcement Ordinance (Ordinance No. 468, as revised); 2) After the City Attorney reads the title, introduce on first reading Ordinance No. 472 amending Title 17 (Zoning) of the Malibu Municipal Code (MMC) and adding Chapter 17.55 (Short-term Rental Ordinance) and amending portions of the Local Coastal Program (LCP) Local Implementation Plan to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act (CEQA); 3) After the City Attorney reads the title, introduce on first reading Ordinance No. 468, as revised, amending MMC Title 17 to establish provisions to regulate short-term rental of property citywide and finding the action exempt from CEQA; 4) Direct staff to schedule second reading and adoption of Ordinance Nos. 472 and 468 as revised for the September 29, 2020 Adjourned Regular City Council Meeting; and 5) Adopt Resolution No. 20-51 amending LCP Land Use Plan Chapter 5 to address short-term rental use in residential zones and finding the action exempt from CEQA.

Assistant to the City Manager Shavelson presented the staff report. She outlined changes to the proposed ordinances. She stated staff recommended changing the following Safe Harbor Provision to read as follows: "Safe Harbor. A hosting

platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C) and (D) above, shall be presumed to be in compliance with this Chapter. If technical issues pose a substantial obstacle to compliance with this Section, a hosting platform may also satisfy these obligations pursuant to a compliance agreement with the City that prevents booking transactions for unpermitted short-term rentals, collects all transient occupancy tax due, and complies with the disclosure requirements of this Section." She stated staff also recommended removing Section 17.55.020(J) from the Hosted Ordinance and Section 17.55.010(H) from Enforcement Ordinance and adding "in compliance with federal and state law" to Section 17.55.010(A)(11) in the Hosted Ordinance and Section 17.55.020(A)(6) of the Enforcement Ordinance.

Planning Director Blue discussed next steps for the proposed ordinances. She stated staff would prioritize resources to implement the ordinance(s) selected by the Council. She stated additional staffing requirements for the Enforcement Ordinance could be considered by the Council at the mid-year budget review. She stated the recommendations of the Planning Commission were memorialized in a Planning Commission resolution included in the staff report. She stated Planning Commission recommendations and staff recommendations that differed were highlighted in the staff report.

Don Tollefson stated parties were the main concern for short-term rentals and indicated support for a substantial party fee. He indicated support for raising the Transient Occupancy Tax (TOT). He stated TOT from VRBO should bypass hosts and go straight to the City. He stated the Council should place a temporary freeze on vacation rentals until an ordinance was adopted.

In response to Mr. Tollefson, Assistant City Attorney Rusin stated the question of a temporary freeze could be addressed after public comment.

Ian Ballon indicated opposition to the onsite host requirement. He questioned how much tax revenue the City would lose and what the impact would be on the local economy. He stated parties were a problem but did not happen at all houses. He indicated opposition to the neighbor veto ability.

Lynn Norton indicated opposition to allowing a designated operator to be someone other than the owner in the Hosted Ordinance. She questioned why multi-family properties should be allowed to have short-term rentals.

Dean Wenner indicated support for enforcement against nuisance properties. He stated it was inappropriate for the City to introduce a business license permitting system for short-term rentals. He stated the Hosted Ordinance was punitive to owner rights.

Nelly Reeves was not present at the time of the hearing.

Bruce Silverstein indicated agreement with Ms. Norton. He stated the Hosted Ordinance needed to be less flexible than Santa Monica's ordinance. He stated the community did not want short-term rentals. He stated it was not clear the City needed to process a Local Coastal Program Amendment (LCPA).

Bettijane Pike indicated opposition to the proposed ordinances. She stated a home owned by her and her siblings had been rented on a short-term basis without issue. She stated the proposed ordinances were aimed at banning short-term rentals and keeping Malibu exclusive.

Jo Drummond indicated opposition to the onsite host requirement. She stated Malibu did not have enough hotels. She recommended a 60-day cap on short-term rentals. She stated the problem was with homes that were purchased with the specific intent of renting them out short-term. She indicated opposition to the noticing requirement. She indicated opposition to an increase in Transient Occupancy Tax.

Colin Drummond stated the proposed ordinances would force many homeowners to sell their homes. He questioned the legality of the ordinances. He stated Malibu was different from Santa Monica. He stated Santa Monica had never allowed short-term rentals. He stated the ordinances would reduce revenue to the City. He requested the Council remove the onsite host requirement.

Susan Gregory was not present at the time of the hearing.

Steve Uhring stated a permit number needed to be required to be printed on advertisements. He recommended a $1,000 permit fee to be paid before the end of the year in order to fund enforcement.

John Mazza stated guest houses could not be rented short-term because they were not dwellings with kitchens. He stated the Planning Commission recommended Council Policy 43 not apply to enforcement.

Scott Dittrich stated he had a permitted guest house with a kitchen. He stated multi-family should be amended to be two or 25% of the total number of units. He stated homeowners should be allowed to rent their home short-term if they were on vacation. He stated the name of someone that complained about a short-term rental should be allowed to be kept confidential.

Kraig Hill stated all short-term rentals were detrimental to residential character. He stated there were more homes being used as short-term rentals than had been reported. He questioned whether the Hosted Ordinance needed an LCPA. He stated

the Enforcement Ordinance would cause confusion for operators and would legitimize short-term rentals. He recommended a designated operator not be allowed to swap to more than one unique short-term rental per year, limiting a host to two listings per permit, and allowing anonymous complaints to be investigated. He indicated support for a vacation amendment and opposition to the number of multi-family units allowed to be rented short-term.

Joey Goodman read correspondence from Madison Group regarding the property at 3833 Paseo Hidalgo Street. He stated he had called the Los Angeles County Sheriff's Department to the property 30 times. He requested an Enforcement Ordinance be adopted.

Mayor Pro Tem Peak requested those not present in the meeting when called not be allowed to speak later.

Andrew Gombiner indicated support for the proposed ordinances as drafted. He stated the CCC had previously indicated cities should enact short-term rental regulations through LCPAs. He discussed a 2019 ruling against Manhattan Beach efforts to regulate short-term rentals without an LCPA.

Bill Sampson read from the City's mission statement. He questioned how short-term rentals advanced the City's mission statement. He stated none of the short-term renters contributed to the civic life of the City.

Rosemary Sampson indicated agreement with Mr. Sampson. She stated residents needed to be in residences.

Patt Healy, Malibu Coalition for Slow Growth, indicated support for allowing short-term rental of one unit per property with the operator being the owner or family member of the owner. She indicated opposition to allowing guest houses to be rented short-term. She stated short-term renters should not be allowed to park on the street. She stated proof of property ownership and principal residency should be provided annually. She indicated support for limiting the number of days per year a unit could be rented short-term. She stated all complaints should be investigated.

Nicholas Hale recommended allowing and requiring a short-term rental management company at the owner's expense in lieu of the onsite host requirement when that requirement could not be met. He recommended hiring additional staff to manage complaints. He stated management companies automatically notified neighbors within 500 feet that a property was being rented short-term and could take some burden off the City.

Michael Lustig indicated agreement with Mr. Hill. He indicated opposition to the Enforcement Ordinance. He stated Council should implement the Hosted Ordinance.

Marc Mansicalco indicated support for continuing to allow short-term rentals and implementing a permit process to address problem properties.

Raja Gosnell declined to speak.

Graeme Clifford stated banning short-term rentals would be simpler, cheaper, and better for the community. He stated the most important requirement was to require an onsite host.

Mario Nieto questioned why the City was spending its time addressing short-term rentals when homelessness and recreational vehicles were a larger problem.

Meme Ballon was not present at the time of the hearing.

Nicole Williams stated the Hosted Ordinance would radically limit the availability of whole home rentals and affordable accommodation in the City. She stated TurnKey Vacation Rentals took responsible property management seriously through a variety of methods. She indicated support for short-term rental regulations and made sense. She indicated opposition to the ordinance.

Ryan Embree stated business use in a residential zone was not permitted. He stated short-term rentals were a parasitic use of an established community. He questioned the cumulative effect on long-term housing and asked the Councilmembers to disclose whether they had participated in short-term rentals. He indicated opposition to short-term rentals on multi-family properties.

Monica Briseno was not present at the time of the hearing.

Bliss Trafton stated vandalism and traffic along PCH had increased with short-term rentals. She questioned how regulations would be enforced and how the City would screen short-term renters for pedophiles.

Andy Lyon discussed the proliferation of recreational vehicles. He requested City Manager Feldman urge the League of California Cities send a letter of opposition to the City Manager of Lynwood regarding his social media post following the shooting of Los Angeles County Sheriff's Department Deputies.

Masifa Meme stated the community needed to come together to pray for peace and healing during the time of civil unrest. She questioned how the proposed changes would affect local businesses in the greatest economic downturn since the Great

Depression. She recommended requiring someone be available to be onsite within 15 minutes instead of requiring someone always be onsite. She stated many of her guests could not afford a 30-day rental. She stated the majority of hosts were very responsible and did not permit parties of any kind.

Ernie Farhat stated a property at 20607 Eagle Pass Drive had received numerous complaints for hosting short-term rentals, which was contrary to the tract Covenants, Conditions and Restrictions. He indicated support for enforcement options. He requested homeowners' associations be given their right to veto any permit issued for short-term rentals.

Mayor Pierson thanked the public for speaking. He stated the Council had been discussing short-term rentals for a long time and the matter was not being rushed.

Councilmember Mullen thanked Mayor Pierson for bringing the matter up again. He thanked staff for being concise and the Planning Commission for its deliberation, and the public for all the input provided. He stated he City Manager Feldman had been encouraging the Council to take action on short-term rentals for some time. He stated the delay in making a decision had been valuable to the extent the City could benefit from the legal cases of other cities and make a better decision in the long run. He stated there were many complicated issues the Council had to consider when making a decision about short-term rentals.

In response to Councilmember Mullen, City Attorney Hogin stated short-term vacation rentals had a presence in Malibu before online platforms. She discussed the distinction of Malibu being entirely within the coastal zone. She discussed cases involving the City of Hermosa Beach, which did not have a certified LCP, where the city had been successful. She discussed a case involving the City of Oxnard and a case involving the City of Manhattan Beach. She stated the City had always held that an LCPA was necessary. She stated the requirement of an onsite host was a change in use from what was already allowed. She stated the Hosted Ordinance could not be enforced before it was certified by the CCC. She stated the City could notify short-term rental hosts of what was being sent to the CCC for certification.

Councilmember Farrer stated it had not been a rushed process and indicated support for making a decision.

In response to Councilmember Farrer, Assistant City Attorney Rusin stated an event fee would have to be based on a cost to the City or else it would be considered a tax. Planning Director Blue stated short-term rental special event permits were capped at 15 persons. She stated the ordinances were set up to allow two people per the number of bedrooms on record up to a maximum of 14 persons in a rental. She stated each parcel was limited to four special event permits per year. She stated a

commercial component or fee for attendance would trigger the requirement for a special event permit, which was conditioned for each event.

In response to Mayor Pro Tem Peak, Planning Director Blue stated the number special event permits being pulled for short-term rental properties was not tracked without a short-term rental permitting system. She stated no special event permits had been issued in the past six months.

Councilmember Farrer left the meeting at 10:58 p.m.

Mayor Pro Tem Peak stated Airbnb had stated it would not allow parties. He stated the limit of a 14-person max was a step in the right direction.

Assistant City Attorney Rusin discussed how the proposed Enforcement Ordinance would work in concert with short-term rentals and special event permits.

Councilmember Mullen stated he was uncomfortable with allowing a designated operator.

Mayor Pro Tem Peak stated the designated operator still needed to be onsite.

Councilmember Wagner clarified the noticing of the item was also in The Malibu Times as a quarter-page advertisement. He stated the Planning Commission voted 5-0 that the owner had to be onsite during a short-term rental. He stated the matter was not being rushed. He stated an ordinance needed to move forward.

In response to Mayor Pro Tem Peak, Planning Director Blue stated the term guest house had a specific definition in the MMC and the LCP. She stated a guest house could not be used as a long-term rental due to the lack of a kitchen. She stated a standard hotel room did not have a kitchen and could be used as a short-term rental.

Councilmember Farrer returned to the meeting at 11:06 p.m.

Planning Director Blue stated staff left guest houses in the ordinance since a kitchen was not typical for a short-term rental.

Mayor Pro Tem Peak stated he did not have an issue with allowing short-term rentals in a guest house.

Planning Director Blue clarified that a second unit had full kitchen facilities and was appropriate for long-term rentals.

In response to Mayor Pierson, Planning Director Blue stated the Hosted Ordinance was set up to allow the property owner to choose whether to rent their main house

or a guest house. Assistant City Attorney Rusin stated it would depend on whether the Council would allow an onsite owner to host short-term rentals in a main house.

Councilmember Mullen indicated support for allowing only one unit per property to be permitted for short-term rentals.

Mayor Pro Tem Peak stated he did not have an issue with which unit was permitted and rented but questioned how it would be permitted.

Planning Director Blue stated the Hosted Ordinance would allow for one permit but up to two listings per property.

Councilmember Mullen and Mayor Pierson agreed a permit would need to specify the unit that would be rented short-term.

Mayor Pro Tem Peak stated the unit that would be rented should be selected at the time of application. He indicated support for allowing two units per property to be rented so long as the owner was onsite in another unit on the property.

Councilmember Mullen indicated opposition to allowing more than one unit to be rented per property.

Councilmember Wagner indicated support for the Planning Commission recommendation.

Councilmember Mullen indicated support for allowing one unit to be permitted for short-term rentals.

Assistant City Attorney Rusin clarified there was consensus for allowing short-term rentals in either a main unit, second unit, or guest house, but only one may be designated on a permit and only one permit would be issued per property.

Planning Director Blue stated an attached second unit or guest house would have its own entrance.

Councilmember Mullen indicated support for allowing a permit to be amended.

Councilmember Wagner discussed unpermitted units.

In response to Councilmember Mullen, Mayor Pro Tem Peak stated he was okay with allowing a designated operator.

Councilmember Wagner indicated support for the Planning Commission recommendation.

Planning Director Blue clarified a short-term rental permit would only be issued under the Hosted Ordinance to a property owner that demonstrated the property was their primary residence. She stated a designated operator would have to be onsite in the same manner the owner would be.

Councilmember Mullen stated he thought there should be a limit to how much time an owner could use a designated operator.

Mayor Pro Tem Peak stated it was already limited because the property had to be the primary residence of the owner to begin with.

Councilmember Mullen stated he would like the designated operator option should only be available for two four-week periods per year.

Councilmember Wagner indicated opposition to allowing a designated operator.

Mayor Pierson stated he was worried about loopholes but also understood that someone would want to rent out their home if they were away on vacation.

Mayor Pro Tem Peak stated limiting the use of designated operator to two months a year would be difficult to enforce.

In response to Councilmember Farrer, Assistant City Attorney Rusin stated a number of cities limited the number of days a property could be rented short-term, but it was difficult to enforce.

Mayor Pierson stated the Council was trying to look ahead at how to protect neighborhoods.

Councilmember Farrer stated a lot of the community had unique situations to accommodate.

Councilmember Mullen stated the priority was to protect neighborhoods.

In response to City Manager Feldman, Assistant City Attorney Rusin stated nothing was set in stone and the Council could make refinements to the proposed ordinances down the road if it wanted to get something on the books quickly.

In response to Assistant City Attorney Rusin, Mayor Pro Tem Peak stated not allowing a designated operator seemed easiest to enforce.

Councilmember Wagner indicated support for owner-operator only.

Assistant City Attorney Rusin questioned whether the person on the deed had to be onsite or if a spouse or other resident could serve as the designated operator.

Councilmember Mullen stated there could be a provision to allow a designated operator for two months per year with a modified permit.

Assistant City Attorney Rusin stated a designated operator, other than the owner, could be allowed to host short-term rentals for up to two months with prior notice to the City modifying the short-term rental permit.

In response to Mayor Pro Tem Peak, Assistant City Attorney Rusin stated the onsite time period between 8:00 p.m. and 6:00 a.m. came from Mr. Lustig.

In response to Assistant City Attorney Rusin, Mayor Pro Tem Peak and Councilmember Mullen clarified a designated operator could be utilized for two months cumulatively per calendar year with two-week notice to the City modifying the short-term rental permit.

Councilmember Wagner stated it would be difficult to enforce.

City Manager Feldman stated substantive changes to the ordinance would have to come back to the Council for first reading. Assistant City Attorney Rusin stated the ordinances traveled separately.

In response to Assistant City Attorney Rusin, Mayor Pro Tem Peak, Councilmember Mullen, and Councilmember Farrer agreed the onsite hours should be between the hours of 9:00 pm and 6:00 am during hosted short-term rentals.

In response to Councilmember Mullen, Assistant City Attorney Rusin stated Council Policy No. 43 required a name be attached to a complaint, which was confidential while a case was open and pending.

Mayor Pierson indicated opposition to fully anonymous complaints.

Assistant City Attorney Rusin stated the Policy could be brought back for consideration later if the Council felt it needed to be changed.

In response to Councilmember Mullen, Mayor Pierson indicated support for allow 40% of multi-family properties with a maximum of two units to be rented.

Planning Director Blue stated the Planning Commission had recommended 40% of multi-family properties with a maximum of two units to be rented, which eliminated duplexes and limited triplexes and quadplexes.

Mayor Pro Tem Peak stated he did not understand disallowing a duplex owner to rent a unit out.

In response to Mayor Pro Team Peak, Planning Director Blue stated the definition of multi-family was three or more units and duplexes were an anomaly.

In response to Assistant City Attorney Rusin, Mayor Pierson, Councilmember Mullen, and Councilmember Wager stated duplexes should be treated as single-family residences.

In response to Mayor Pro Tem Peak, Councilmember Mullen stated the Planning Commission had recommended 40% of multi-family properties with a maximum of two units to be rented.

Mayor Pro Tem Peak discussed the impact on long-term rental availability.

Councilmembers Mullen and Wagner indicated support for allowing up to 40%, up to two units maximum (whichever is fewer), of multifamily properties to be rented short-term if the other onsite units are rented long-term.

Councilmember Farrer indicated support for allowing 50% so a quadplex could have two rental units.

In response to Mayor Pro Tem Peak, Planning Director Blue stated there were approximately 28 triplexes and 50 or 60 quadplexes in the City.

Mayor Pro Tem Peak indicated support for allowing up to 40%, up to two units maximum (whichever is fewer), of multifamily properties to be rented short-term if the other onsite units are rented long-term.

In response to Mayor Pro Tem Peak, Assistant City Attorney Rusin stated a permit number was required to be added to any advertisement.

Mayor Pro Tem Peak indicated support for requiring a permit number and contact information to be posted onsite.

Councilmember Wagner stated a permit number was required to be added to any advertisement.

Councilmember Mullen stated he did not see an advantage to posting the permit number onsite.

Councilmember Farrer expressed concern about hosted short-term rentals in the time of COVID-19.

City Attorney Hogin suggested allowing emergency orders to impose temporary restrictions where necessary.

In response to Councilmember Mullen, Mayor Pierson stated the Council could revisit the ordinance as needed.

In response to Councilmember Mullen, Planning Director Blue stated a fee schedule item would need to come back to the Council to establish a short-term rental permit fee.

City Manager Feldman stated the fee schedule required a public hearing and legally required time before the fee became effective.

In response to Mayor Pro Tem Peak, City Attorney Hogin stated the permit fee would be established based on the actual cost to the City.

In response to Mayor Pro Tem Peak, Planning Director Blue stated Section 17.55.020 of the Hosted Ordinance provided a list of requirements including a property owner attesting to the number of bedrooms. She stated staff would research applications as issued arose.

Mayor Pierson stated most rental advertisements showed pictures of the unit.

Assistant City Attorney Rusin stated lying on a permit application would put an owner's future ability to rent a unit short-term at risk.

MOTION Mayor Pro Tem Peak moved, and Councilmember Mullen seconded a motion to continue to a date uncertain the Public Hearing and direct staff to bring back the Hosted Ordinance (Ordinance No. 472 and Resolution No. 20-51) amended to: a) allow guest houses to be used for short-term rental but require that a short-term rental permit designate only one specific unit on the single-family residence property to be listed; b) require the property owner to be onsite during short-term rental except that a designated operator, other than the owner, is allowed to host short-term rentals for up to two months cumulatively per calendar year with two week notice to the City modifying the short-term rental permit; c) require designated operator be present onsite between the hours of 9:00 pm and 6:00 am during hosted short-term rentals; d) allow one unit of a duplex to be rented short-term if the owner lives onsite in the other ; and e) allow up to 40%, up to two units maximum (whichever is fewer), of multifamily properties to be rented short-term if the other onsite units are rented long-term. The question was called, and the motion carried unanimously.

Councilmember Wagner stated two ordinances would take more staff time and indicated support for the long-term goal of the Hosted Ordinance.

Mayor Pierson stated the long-term goal left a lot of people without necessary enforcement while the Hosted Ordinance went through the CCC.

City Attorney Hogin stated short-term rentals were allowed in the City but had gotten out of hand and the tools available to the City were not as effective as they needed to be. She stated the Enforcement Ordinance was not a land use regulation but provided the City with necessary enforcement tools to shut down bad actors as soon as possible.

In response to Mayor Pierson, City Attorney Hogin stated the Enforcement Ordinance would be used to enforce the Hosted Ordinance once it was certified by the CCC.

Councilmember Wagner stated everything City Attorney Hogin stated was in the staff report.

MOTION Mayor Pro Tem Peak moved, and Councilmember Farrer seconded a motion to:1) introduce on first reading Ordinance No. 468, as amended to remove Section 17.55.010(H) and add to Section 17.55.020(A)(6) "in compliance with federal and state law," amending Title 17 (Zoning) of the Malibu Municipal Code and adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide, updating Chapter 15.44 pertaining to onsite wastewater treatment systems and short-term rentals and finding the action exempt from the California Environmental Quality Act; and 2) direct staff to schedule second reading and adoption of Ordinance No. 468 for the September 29, 2020 Adjourned Regular City Council Meeting.

Assistant City Attorney Rusin read the title of the ordinance. He clarified the motion included staff recommended changes outlined at the beginning of the presentation.

Mayor Pro Tem Peak and Councilmember Farrer agreed with Assistant City Attorney Rusin.

The question was called, and the motion carried 4-1, Councilmember Wagner dissenting.

B. Face Covering Ordinance

Recommended Action: Adopt Ordinance No. 470U requiring all individuals to wear a face covering while in public, finding the same exempt from the California Environmental Quality Act and setting forth the facts constituting such urgency; a four-fifths vote of the City Council is required and, if approved, it will take effect immediately.

Deputy City Attorney Camarena presented the staff report.

Bruce Silverstein questioned the requirement for a mask to be worn anytime a person left their residence. He indicated support for face coverings and physical distancing during the COVID-19 pandemic but stated the language was overbroad.

Hamish Patterson stated the ordinance was an overreach and a hassle. He stated it was a burden to law enforcement and he would not comply. He stated the City had not taught the community how to be healthier.

Graeme Clifford was not present at the time of the hearing.

Deputy City Attorney Camarena stated the ordinance banned face coverings with valves and open chin triangle bandanas, which defeated the purpose of wearing a mask.

Mayor Pierson stated the Los Angeles County Sheriff's Department had indicated support for the ordinance. He stated a lot of community members had reached out to him about an ordinance.

Councilmember Mullen stated the public was already compliant. He indicated support for educating the community but agreed the ordinance was an overreach.

Councilmember Wagner stated the ordinance was necessarily aimed at compliance. He stated everyone wearing a proper mask was key to keeping people alive. He agreed it was an overreach but stated it was one he could support.

Councilmember Farrer stated she would rather err on the side of caution.

Mayor Pro Tem Peak stated he was comfortable with the County order and stated he felt there was good enough compliance.

Mayor Pierson stated the ordinance was late but stated the COVID-19 pandemic was not over and flu season was coming.

MOTION Mayor Pierson moved, and Councilmember Farrer seconded a motion to adopt Ordinance No. 470U requiring all individuals to wear a face covering while in public, finding the same exempt from the California Environmental Quality Act and setting forth the facts constituting such urgency.

City Attorney Hogin read the title of the ordinance.

A four-fifths vote of the City Council was required, the question was called, and the motion failed 3-2, Councilmember Mullen and Mayor Pro Tem Peak dissenting.

City Attorney Hogin stated an urgency ordinance required a supermajority vote of the Council, took effect immediately, and had to be justified by an emergency need. She discussed the timeline for implementation of a non-urgency ordinance.

In response to City Attorney Hogin, Mayor Pierson stated he would bring the matter back for consideration if the COVID-19 pandemic took another turn for the worse.

City Attorney Hogin thanked Deputy City Attorney Camarena.

C. Temporary Waiving of Certain Sign Regulations to Assist Businesses and Other Uses during COVID-19

Recommended Action: Adopt Ordinance No. 471U implementing temporary signage regulations to accommodate business, institutional and other non-residential operations during the period of local emergency relating to COVID-19, finding the same exempt from the California Environmental Quality Act and setting forth the facts constituting such urgency; a four-fifths vote of the City Council is required and, if approved, it will take effect immediately.

Planning Director Blue presented the staff report.

Graeme Clifford was not present at the time of the hearing.

Councilmember Farrer stated it was a small barrier to remove for businesses during the hardships brought on by the COVID-19 pandemic.

MOTION Councilmember Mullen moved to adopt Ordinance No. 471U implementing temporary signage regulations to accommodate business, institutional and other non-residential operations during the period of local emergency relating to COVID-19, finding the same exempt from the California Environmental Quality Act and setting forth the facts constituting such urgency.

Councilmember Wagner stated there should be a sunset clause. He stated people would take advantage of the relaxed rules. He questioned what staff would use to verify what sign was approved before the urgency ordinance.

Planning Director Blue stated a max of two signs per business would be allowed that were disallowed under current law, which would again be disallowed once the local emergency was terminated. She stated Code Enforcement did periodic sweeps of the City for banners and flags.

Assistant City Attorney Rusin stated the ordinance would expire when the local emergency ended.

Councilmember Wagner indicated support for the ordinance but stated it would be hard to enforce removal of disallowed signs after the local emergency was terminated.

Councilmember Farrer seconded the motion.

Assistant City Attorney Rusin read the title of the ordinance.

A four-fifths vote of the City Council was required. The question was called, and the motion carried unanimously.

ITEM 5 OLD BUSINESS

None.

ITEM 6 NEW BUSINESS

A. Initiate Zoning Text Amendment Pertaining to Administrative Approval of Extensions for In-kind Disaster Rebuild Projects
Recommended Action: 1) Adopt Resolution No. 20-49 initiating a zoning text amendment to Chapter 17.60.020 (Nonconforming Uses and Structures) of the Malibu Municipal Code to eliminate the requirement for Planning Commission approval and instead allow administrative approval of extension requests by the Planning Director; 2) Direct the Planning Commission to schedule a public hearing regarding the same; 3) Direct staff whether to present the item for comment to the Zoning Ordinance Revision and Code Enforcement Subcommittee; and 4) Provide direction to staff on initiating an amendment to extend the deadlines to apply for in-kind disaster rebuild projects with a Planning Verification.

Planning Director Blue presented the staff report.

Robert Brinkmann stated he lost his home in the Woolsey Fire. He stated Planning Department staff had been very helpful. He stated the zoning text amendment (ZTA) changed how Planning reviews were handled, allowed the City to not follow CCC requirements, and helped developers.

Bruce Silverstein indicated agreement with Mr. Brinkmann. He stated he did not see a problem with the current process. He stated there was already too much power with the staff. He stated the Council granting across the board extensions would be more transparent.

John Mazza stated extension requests took the Planning Commission very little time to consider. He stated it was an issue of transparency.

Steve Uhring was not present at the time of the hearing.

Kraig Hill questioned the need for the ZTA. He stated extensions for fire rebuilds should be given even more consideration due to the possibility for uncompensated staff time through fee waivers.

Terry Lucoff discussed the possibility of the Council granting across the board extensions. She indicated support for the Planning Commission continuing to hear extension requests.

Ryan Embree stated there was no criteria established in the staff report. He stated he felt there was a huge fiscal impact. He stated the City could no longer afford to continue waiving fees for fire rebuilds.

In response to Mayor Pierson, Planning Director Blue stated the fee waiver program was separate from the item before the Council. She stated the item before the Council was related to the two-year window provided for fire rebuilds to apply for the planning verification process. She stated after the two-year window, fire rebuilds would need to apply for an extension of that window with the Planning Commission. She stated a different ZTA initiation resolution could be brought back to address changing the actual deadline. She clarified the item before the Council was initiation of a ZTA only. She stated the fire rebuild process was not tied to the original owner at the time of the fire.

In response to Councilmember Mullen, Planning Director Blue confirmed anyone could rebuild a property after a fire, but fee waivers were tied to the owner at the time of the fire.

In response to Mayor Pro Tem Peak, Planning Director Blue confirmed extensions could not be limited only to the owner at the time of the fire. She stated the timeline extension being discussed pertained to rebuilding existing non-conforming structures after a fire without having to apply to the Planning Commission for an extension or Variance. She stated the Council granting across the board extensions would address the public speaker concerns about staff granting extensions.

Mayor Pro Tem Peak indicated support for extending the timeframe by one year.

Mayor Pierson agreed with Mayor Pro Tem Peak.

Planning Director Blue stated fee waivers were a separate matter and were set to expire as outlined by resolution.

Councilmember Wagner stated the council could send the matter to the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES) for

transparency.

Councilmember Farrer stated the public seemed to be reading into the staff report.

In response to Councilmember Farrer, Planning Director Blue stated the City had retained two Contract Planners, one to handle Woolsey Fire rebuilds and one to handle regular applications.

MOTION Mayor Pro Tem Peak moved to send the matter to ZORACES.

Planning Director Blue questioned whether the Council wanted a different ZTA initiation resolution to be brought back to address the actual deadline to be done concurrently.

Mayor Pierson stated it felt like a stretch to get back to the Council before November 8, 2020.

Assistant City Attorney Rusin stated initiating the ZTA and the ZORACES meeting could be done concurrently.

In response to Mayor Pro Tem Peak, Planning Director Blue stated there was a 21-day noticing requirement for the Planning Commission hearing as well as the Council hearing.

Planning Director Blue recommended bringing back initiation of the ZTA at the next Council meeting and referring the matter to ZORACES concurrently.

Councilmember Wagner indicated agreement with Planning Director Blue.

SUBSTITUTE MOTION

Councilmember Mullen moved to: 1) direct staff to bring back initiation of a zoning text amendment to extend the deadlines for submittal of an application for reconstruction and obtaining building permit pursuant to Malibu Municipal Code Section 17.60.020(C); and 2) refer the matter to the Zoning Ordinance Revision and Code Enforcement Subcommittee for review.

Councilmember Wagner seconded the motion. The question was called, and the substituted motion carried unanimously.

ITEM 7 COUNCIL ITEMS

None.

ADJOURNMENT

MOTION At 1:08 a.m., on September 15, 2020, Mayor Pro Tem Peak moved, and Councilmember Mullen seconded a motion to adjourn the meeting.

Approved and adopted by the City Council of the City of Malibu on November 5, 2020.

MIKKE PIERSON, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Order (revised October 23, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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 citycouncil@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 by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Malibu City Council
Adjourned Regular Meeting Agenda
(to be held during COVID-19 emergency)

Thursday, November 5, 2020

6:30 P.M. – CITY COUNCIL ADJOURNED REGULAR MEETING

Various Teleconference Locations

YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT

MALIBUCITY.ORG/VIDEO

Six-thirty p.m. **Regular Session**

Call to Order - Mayor

Roll Call - Recording Secretary

Pledge of Allegiance

Approval of Agenda

Report on Posting of Agenda – October 29, 2020

1. Ceremonial/Presentations

A. Presentation of commendation to Planning Director Bonnie Blue, upon her retirement, in recognition of her service to the City

2. Written and Oral Communications from the Public

A. Communications from the Public concerning matters which are not on the agenda but for which the City Council has subject matter jurisdiction. City Council may not act on these matters except to refer the matters to staff or schedule the matters for a future agenda.

B. Commission / Committee / City Manager Updates

C. City Council Subcommittee reports / Mayor and Councilmember meeting attendance, reports and inquiries

3. Consent Calendar

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 473

Recommended Action: Conduct second reading, unless waived, and adopt Ordinance No. 473 requiring the use of face coverings during the COVID-19 pandemic and finding the same exempt from the California Environmental Quality Act.

Staff Contact: City Clerk Glaser, 456-2489, ext. 228

B. New Items

1. Waive Further Reading

Recommended Action: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

Staff Contact: City Attorney Hogin, 456-2489, ext. 228

2. Approve Warrants

Recommended Action: Allow and approve warrant demand 61510-61610 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 669 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of $ 4,449,837.75. City of Malibu payroll check number 5132 and ACH deposits were issued in the amount of $209,940.74.

Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

3. Approval of Minutes

Recommended Action: Approve the minutes for the September 14, 2020 Malibu City Council Regular meeting.

Staff Contact: City Clerk Glaser, 456-2489, ext. 228

4. Two-Year Update on the Coastal Development Permit Extension Policy

   Recommended Action: Receive and file the update on staff's implementation of the Coastal Development Permit extension policy.

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

5. Amendment to Professional Services Agreement with Landscape Development, Inc.

   Recommended Action: Authorize the Mayor to execute Amendment No. 1 to the Professional Services Agreement with Landscape Development, Inc. for landscape maintenance services at Charmlee Wilderness Park.

   Staff Contact: Community Services Director Bobbett, 456-2489, ext. 225

4. Ordinances and Public Hearings

A. Short-Term Rental Regulations - Hosted Short-Term Rental Ordinance and Local Coastal Program Amendment

Recommended Action: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 472 (Hosted Ordinance) amending portions of the Local Coastal Program (LCP) Local Implementation Plan and amending Title 17 (Zoning) of the Malibu Municipal Code adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act (CEQA); 2) Direct staff to schedule second reading and adoption of Ordinance No. 472 for the November 23, 2020 Regular City Council Meeting; and 3) Adopt Resolution No. 20-51 amending LCP Land Use Plan Chapter 5 to address short-term rental use in residential zones and finding the action exempt from CEQA.

Staff Contact: Assistant to the City Manager Shavelson. 456-2489, ext. 254

B. Fiscal Year 2020-2021 Short-Term Rental Permit Fee

Recommended Action: 1) Conduct the Public Hearing; and 2) Adopt Resolution No. 20-57 amending the Fee Schedule for Fiscal Year 2020-2021 to add a Short-term Rental (STR) Permit Fee and finding the action to be exempt from the California Environmental Quality Act.

Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

5. Old Business

A. Big Rock Mesa Landslide Assessment District Update (Continued from October 12, 2020)

Recommended Action: Continue this item to the November 9, 2020 Regular City Council meeting.

Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

6. New Business

None.

7. Council Items

None.

Adjournment

Future Meetings

Monday, November 9, 2020	6:30 p.m.	Regular City Council Meeting	Location TBD
Monday, November 23, 2020	6:30 p.m.	Regular City Council Meeting	Location TBD
Monday, December 14, 2020	6:30 p.m.	Regular City Council Meeting	Location TBD
Monday, December 28, 2020		CANCELLED	

Guide to the City Council Proceedings

As a result of the Coronavirus (COVID-19) pandemic, the City is under a state of local emergency, as well as states of emergency that have been declared in the County of Los Angeles, state of California, and a federal emergency declared by the President of the United States. At the direction of the Governor, starting March 19, 2020, the entire state is subject to stay-at-home orders. These measures are imposed to reduce the risk of spreading COVID-19. To comply with these emergency measures, the City Council meeting will be open and public but conducted via teleconference only. This way the public, the staff, and the Council will not be physically in the same place.

The Oral Communication portion of the agenda is for members of the public to present items, which are not listed on the agenda but are under the subject matter jurisdiction of the City Council. No action may be taken under, except to direct staff unless the Council, by a two-thirds vote, determines that there is a need to take immediate action and that need came to the attention of the City after the posting of the agenda. Although no action may be taken, the Council and staff will follow up, at an appropriate time, on those items needing response. Each speaker is limited to three (3) minutes. Members of the public wishing to speak during the meeting must participate through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Mayor and then you must be present in the Zoom conference to be recognized. Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Items in Consent Calendar Section A have already been considered by the Council at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Council. If discussion is desired, an item may be removed from the Consent Calendar for individual consideration. Councilmembers may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from the Consent Calendar will be taken up by the Council following the action on the Consent Calendar. The Council first will take up the items for which public speaker requests have been submitted.

For Public Hearings involving zoning matters the appellant and applicant will be given 15 minutes each to present their position to the City Council, including rebuttal time. All other testimony shall follow the rules as set forth under Oral Communication. In order to speak, individuals must visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Old Business items have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Public comment shall follow the rules as set forth under Oral Communication.

Items in New Business are items, which are appearing for the first time for formal action. Public comment shall follow the rules as set forth under Oral Communication.

City Council Items are items, which individual members of the City Council may bring up for action, to propose future agenda items or to suggest future staff assignments. No new items will be taken-up after 10:30 p.m. without a two-thirds vote of the City Council.

City Council meetings are aired live and replayed on City of Malibu Government Access Channel 3 and are available on demand on the City's website at www.malibucity.org/video. Copies of the staff reports or other written documentation relating to each item of business described above are on file in the office of the City Clerk and available upon request by emailing cityclerk@malibucity.org.

The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Environmental Sustainability Director Yolanda Bundy, (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II].

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. Regular and Adjourned Regular meeting agendas may be amended up to 72 hours in advance of the meeting. Dated this 29th day of October 2020 at 12:00 p.m.

Heather Glaser, City Clerk

Adjourned Meeting
11-05-20
Item 4.A.

Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: October 27, 2020 Meeting date: November 5, 2020

Subject: Short-Term Rental Regulations - Hosted Short-Term Rental Ordinance and Local Coastal Program Amendment

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RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 472 (Exhibit 1 – Hosted Ordinance) amending portions of the Local Coastal Program (LCP) Local Implementation Plan (LIP) and amending Title 17 (Zoning) of the Malibu Municipal Code (MMC) adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act (CEQA); 2) Direct staff to schedule second reading and adoption of Ordinance No. 472 for the November 23, 2020 Regular City Council Meeting; and 3) Adopt Resolution No. 20-51 (Exhibit 2) amending LCP Land Use Plan (LUP) Chapter 5 to address short-term rental use in residential zones and finding the action exempt from CEQA.

FISCAL IMPACT: In Fiscal Year 2018-2019 the City collected $2.42 million from Transient Occupancy Tax (TOT) of short-term residential rentals. Based on the unaudited year-end numbers from Fiscal Year 2019-2020, the City is projected to receive $3 million from TOT of short-term residential rentals. The Adopted Budget for Fiscal Year 2020-2021 anticipates that the City will receive $1.3 million. The impact to this General Fund revenue source from the Hosted Ordinance is expected to be significant but cannot be determined with certainty at this time.

On June 24, 2019, the Council approved a Professional Services Agreement with Raftelis Financial Consultants (Raftelis) to conduct a financial analysis on the implications of a ban on short-term rentals. On October 28, 2019, the Council was presented with a financial analysis on the implications and potential impacts of a ban on short-term rentals. The

analysis, as presented, incorporated the impacts to the City's budget from the Woolsey Fire and subsequent winter storms. Due to the more recent changes in the City's revenue and expenses from the COVID-19 pandemic and its ongoing and unknown impacts, an updated forecast has not yet been completed. As part of its analysis, Raftelis provided the City with a model, which City staff uses to forecast revenue and expenses. Staff will continue to use the model to monitor and forecast any potential negative impacts that will occur as a result of the proposed Hosted ordinance.

It is anticipated that the proposed Hosted ordinance will require additional staff resources for the processing of permits and enforcement; however, it is further anticipated that these costs will be offset by fees from permits and fines from enforcement.

The Hosted Ordinance would require revisions to the new permitting system implemented pursuant to the Enforcement Ordinance. Staff will return to Council with a revised Fee Schedule before the ordinance is scheduled to go into effect. All associated budget amendments to revenue and expenses will be presented to Council as part of the mid-year budget process in January 2021.

WORK PLAN: This item was included as item 4d in the Adopted Work Plan for Fiscal Year 2020-2021.

DISCUSSION: For several years, the City has conducted legislative, legal, and financial review of potential short-term rental regulations. Several options have been discussed. On December 3, 2019, the Council directed staff to prepare an ordinance that mirrors the City of Santa Monica's "hosted" short-term rental (STR) regulations in which an onsite "host" must be present on the property during short-term rentals. The Council initiated the necessary Local Coastal Program Amendment (LCPA) and ZTA at that time.

This report includes a brief background leading up to the presentation of the Hosted Ordinance amendments at this meeting, followed by a summary of the Hosted Ordinance amendments, including the changes Council directed to be included during the September 14 meeting and next steps.

Background

On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002 to regulate short-term rentals. The City Council directed staff to investigate potential options and procedures for banning short-term rentals (30 days or less) in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the LCPA process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

On November 9, 2018, the Woolsey Fire reached Malibu and ultimately destroyed 488 single-family homes in the City. The local emergency declaration persisted until April 22, 2019.

On June 24, 2019, the Council authorized an agreement with Raftelis for financial analysis services to examine the short- and long-term financial implications of a potential short-term rental ban. The Administration and Finance Subcommittee received the financial report on October 3, 2019, and made recommendations that were considered by the Council on October 28, 2019, together with the other information previously requested, including potential options for a ban, and approaches other coastal cities have taken to legislate short-term rental regulation and associated litigation. At the conclusion of deliberations, Council directed staff to return with a resolution to initiate an LCPA and ZTA for "home-sharing" regulations similar to the City of Santa Monica. The Council directed staff to bypass the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) and take the LCPA/ZTA directly to the Planning Commission. Council also directed staff to return with an updated version of ZTA No. 17-002 from September 26, 2018, that could be implemented without an LCPA with the understanding that it would be superseded by the new Santa Monica-style LCPA/ZTA when approved.

On December 3, 2019, the Council considered ZTA No. 17-002 (presented at that time as Ordinance No. 458) to regulate short-term rentals of residential property and a resolution initiating a LCPA and ZTA for a "Santa Monica" style hosted ordinance. The Council did not move forward with ZTA No. 17-002 but did initiate the new LCPA and ZTA for the Santa Monica-style home-sharing regulations. While Santa Monica's ordinance requires the presence of an onsite host *within* the rented dwelling unit, the Council's direction was to require a "host" to live *onsite* at the property during the rental but not require the person to be *within* the dwelling unit. The Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included in the LCPA/ZTA. Pursuant to Council's direction, a hearing for the Planning Commission was scheduled for March 30, 2020.

However, in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings were cancelled until they resumed virtually in April 2020. Legislative matters expected to draw extensive public interest were temporarily postponed. On June 8, 2020, the Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission for a virtual public hearing.

On June 22, 2020, before the Planning Commission hearing on the Hosted ordinance, in response to resident concerns about short-term rentals and the need for regulation to more immediately address neighborhood impacts, the Council, by consensus, directed staff to return with an update of ZTA No. 17-002 to establish an ordinance that addressed enforcement tools but did not involve a change of the uses allowed in the City while the LCPA and ZTA were processed. The proposed ordinance would put in place a STR

permitting system and new regulations to address nuisance issues and impacts on neighborhoods and also attach significant penalties to violations while the LCPA and ZTA for the Hosted Ordinance continue through the approval process.

On July 29, 2020, the Planning Commission held a public hearing to review the Draft Hosted STR Regulations in LCPA No. 19-003 and ZTA No. 19-005, including requiring an onsite host and multifamily regulations, and adopted Planning Commission Resolution No. 20-35 with recommendations to City Council. Planning Commission Resolution No. 20-35 is provided as Exhibit 3.

On August 10, 2020, the City Council held a public hearing to consider ZTA No. 17-002 (Ordinance No. 468). Council continued the hearing and directed staff to return on September 14, 2020, with presentations that could be heard concurrently with ZTA No. 17-002 on: 1) a revised version of ZTA No. 17-002 (the Enforcement Ordinance) that was pared down to focus on providing enforcement tools to address negative and nuisance impacts of short-term rentals right away and 2) the Hosted Ordinance (LCPA No. 19-003/ZTA No. 19-005) and the Planning Commission's recommendations thereon.

On September 14, 2020, the City Council held a public hearing on all of the potential amendments. The Council took two actions: 1) it voted to approve the revised version of ZTA No. 17-002, the Enforcement Ordinance (Ordinance No. 468, as revised)—which was subsequently adopted on September 29, 2020; and 2) Council considered the Hosted Ordinance (Ordinance No. 472 and Resolution No. 20-51) and directed staff to bring back the Hosted Ordinance with specific changes which will be detailed later in this report. Per the terms of the Enforcement Ordinance, properties must now obtain a permit by January 15, 2021, in order to rent property on a short-term basis, and all rentals from that date forward must comply with the terms of the Enforcement Ordinance. Should the Hosted Ordinance be adopted it will supersede the Enforcement Ordinance upon certification of the LCPA by the California Coastal Commission.

Summary of Hosted Ordinance (LCPA No. 19-003/ZTA No. 19-005)

The amendments address portions of the LCP and of Title 17 (Zoning Ordinance) of the MMC, and also include a small related change to MMC Chapter 15.44 pertaining to operating permits for onsite wastewater treatment. The LCPA involves changes to both the LCP LUP (a policy document) and LIP, a regulatory document. As shown in Table 1, the LIP changes and MMC changes are included together in Ordinance No. 472. The LUP changes are included in Resolution No. 20-51. The organization of the amendments and where each portion can be found in the ordinance or resolution is broken down in Table 1.

Table 1 – Organization of Hosted Ordinance Amendments

Amendment		Ord. or Res. / Report Exhibit #	Section of Ordinance or Resolution
LCPA 19-003			
	LUP changes	Resolution No. 20-51 / Exhibit 2	Section 4
	LIP changes	Ordinance No. 472 / Exhibit 1	Section 2
ZTA 19-005			
	Title 17 changes	Ordinance No. 472 / Exhibit 1	Section 4
MMC Text changes			
	Chapter 15.44 changes	Ordinance No. 472 / Exhibit 1	Section 6

In general, the amendments propose an annual STR permitting program that seeks to address nuisance issues that have developed under the recent, rapid, and substantial expansion of short-term rental activity in the City and protect residential neighborhood character and housing stock availability and variety. The permitting system included in the Hosted Ordinance LCPA/ZTA mirrors that of Enforcement Ordinance so that if it is adopted a relatively seamless transition can occur administratively.

Changes Directed by Council at September 14, 2020 Meeting

The Council directed that staff make several changes to the Hosted Ordinance, including:

- Limiting the time a designated operator can serve as "host" to 60 days
- Capping short-term rentals on multifamily parcels at 40% but no more than two units, and one unit of a duplex.
- Allow guest houses to be used for STR use, but that only one listing be allowed and the unit (or portion thereof) that is to be rented on a short-term basis be specified in the permit. Change the hours where the host must be present onsite to 9pm to 6am.

These changes have been incorporated into the attached ordinance and resolution and are discussed in the summary below.

Summary of Hosted ZTA

The proposed permit program has two distinct STR permit types: one for owners of single-family residences and condominium units to offer hosted short-term rentals, and one for owners of multifamily parcels to offer up to two units as short-term rentals as long as all other units are rented long-term.

- Hosted Short-Term Rental Permit (HSTR permit) - To be eligible for a hosted short-term rental permit, the property must be the owner's primary residence. In addition, the owner must live onsite, meaning maintain a physical presence on the property, including but not limited to, sleeping overnight and eating meals each day during

the short-term rental of the property. The owner must also be available at all times to resolve any issues with the rented dwelling unit, must appear at the property within one hour of a phone call requesting such appearance by the City, and must be physically onsite from 9:00 p.m. until 6:00 a.m. The owner may authorize a designated operator to perform these functions on his or her behalf for up to 60 days cumulatively per calendar year, but must provide the City with written notice of the use of (and contact information for) a designated operator two weeks before the rental occurs.

- Multifamily Short-term Rental Permit (MSTR permit) - Owners of multifamily residential parcels may obtain a multifamily short-term rental permit. This permit would allow the owner to rent up to 40%, up to two units maximum (whichever is fewer) if all the other units on the property are rented on a long-term basis. Short-term rentals on multifamily properties do not require the owner or designated operator to live onsite during the rental. Owners of duplexes may obtain a MSTR permit for one unit of a duplex to be rented short-term if the owner lives onsite in the other unit. Such owner may use a designated operator for up to 60 days to fulfill this obligation.

Key requirements include:

- An individual may not possess more than one active short-term rental permit, regardless of type.
- A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented).
- No person may serve as a designated operator for more than one short-term rental concurrently.
- Permits must be renewed annually.

In the September 14, 2020 version of the ZTA, language was included for each residential zone to indicate that short-term rental use is only allowed pursuant to a valid short-term rental permit issued by the City, with additional detail pertaining to hosted and multifamily short-term rentals. This language has been replaced by a more general reference to the requirement for a valid short-term rental permit so that the detailed permit requirements of Chapter 17.55 will govern all permit issuance and implementation, rather than the zone itself. Similarly, in MMC Title 17 Appendix 1 (Permitted Uses Table), the two new footnotes added to explain the new STR permit type have been collapsed into a single footnote that references the limitations for short-term rentals based on land use type.

Short-term Rental General Requirements

To conduct short-term rentals, owners must comply with all the terms and conditions of the short-term rental program including, but not limited to, the following:

1. Maintain an active permit at all times short-term rentals are conducted
2. Take responsibility for and actively prevent any nuisance activities that may take place during short-term rentals
3. Be available, or designated operator be available, 24/7 via contact information provided to and kept current with City and any guest renting the property
4. Collect and remit TOT as set forth in MMC Chapter 3.24
5. Provide basic health and safety features for guests
6. Limit occupancy based on the number of bedrooms on record in City or County documents, as determined by the Planning Director, to two people more than twice the number of bedrooms, but no more than 14 unless a special event permit (SEP) is obtained under MMC Chapter 5.34 (example – for a 3 bedroom property – ((3 bedrooms x 2 people) + 2 people)) = 8 people max occupancy, <u>including</u> owner/designated operator)
7. Maintain liability insurance with minimum limits no less than $500,000
8. Provide guests with the City of Malibu's Short-Term Rental Code of Conduct
9. Provide access to the property and documents upon request by City during business hours or when property is rented
10. Comply with all applicable building, fire and other safety codes including noise limitations
11. Maintain a valid Onsite Wastewater Treatment System (OWTS) operating permit (a compliance agreement option is available for those in the process of upgrading)
12. Follow all rules for advertising short-term rentals:
    - immediately remove any advertisement identified by the City as illegal
    - include permit number in all advertisements
    - clearly state in all advertisements related to a HSTR permit that the owner or designated operator will live onsite during the rental (not required for MSTR permits)
    - clearly state occupancy limits
13. Keep permit application information on file with the City current at all times, including the 24/7 contact information for owner / designated operator

<u>Grounds for Denial and Revocation of Permit</u>

The amendments specify grounds for denial of a permit application or renewal request and for revocation of a permit. These include:

- Failure to pay TOT
- Outstanding code violations on the property
- Failure to comply with applicable codes like fire, building safety, etc.
- False statements in relation to the STR permit application
- Application information has not been updated as required
- OWTS requirements have not been met

- Property has received two or more citations for noise ordinance violations in 12 consecutive months
- For HSTR permit holders – three citations for other violations of the STR Ordinance in 12 consecutive months, for MSTR permit holders – two citations in 12 consecutive months

Effect of Permit Revocation or Denial

If an application is denied or a permit is revoked for making false statements on the application, violating Section 17.55.030(A)(9), or violating the City's noise ordinance more than twice within 12 months, a new application cannot be approved for that applicant and location for 12 months after the last violation or short-term rental. Essentially, that owner and property cannot conduct short-term rentals for a year.

If a property is found to be rented or advertised for short-term rental after permit denial or revocation, the property and applicant will be prohibited from short-term rentals for an additional six months on top of any time periods mentioned above.

An applicant may appeal a denial or revocation decision to the Planning Commission, but no short-term rentals may be conducted while the appeal is pending.

Enforcement

The amendments set forth special tools for enforcement, including setting a new fine for unpermitted short-term rentals at $1,000 or twice the daily rental rate, whichever is higher, and setting the fine for all other violations at $500 or twice the daily rental rate. The amendments also clarify explicitly that offering or allowing short-term rental of any location not approved for use as a dwelling unit, such as any vehicle, trailer, tent, storage shed or garage, is prohibited.

Summary of Proposed LCPA

As noted earlier, the LCPA involves changes to the LCP LUP and LIP. The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP contains provisions and standards to carry out the policies of the LUP. Any development proposed in the City must first obtain a coastal development permit unless the LCP provides for an exemption.

As with the ZTA, the LCPA still memorializes that short-term rental use is allowed in residential zones pursuant to a valid short-term rental permit issued by the City, and the detailed requirements for issuance of and operation under HSTR and MSTR permits is left to the LIP and MMC Chapter 17.55. The permitting requirements will allow the City to better control nuisance issues and avoid the proliferation of short-term rental businesses

in which corporations and other entities buy up residences to use solely for vacation rentals, while ensuring a variety of visitor-serving accommodations remain available. In the LUP, the amendment addresses the purpose policies for each residential zoning district by specifying that a valid short-term rental permit issued by the City is required.

In the LIP, definitions have been added to LIP Section 2.1 to address short-term rental terms used in the LUP and LIP amendments. Table B – Permitted Uses has been updated to add short-term rental use, subject to a valid short-term rental permit. The ZTA includes the corollary changes. And finally, language has been added to LIP Chapter 13 (Coastal Development Permits) to clarify that short-term rental use is not development requiring a coastal development permit so long as it is conducted pursuant to a valid short term-rental permit issued by the City and subject to certain criteria to ensure protection of coastal resources. This language has been added to a new Section 13.31 in response to comments from CCC staff (Exhibit 5) during the Planning Commission's review of the amendments. The other minor comments provided in the CCC staff comment letter have been incorporated into the amendments. City staff has had several discussions with CCC staff about the City's approach to STR regulation but, to date, this comment letter is the only response that addresses specific changes to the proposed language.[1]

Comparison Between Santa Monica and Malibu Hosted Ordinance

One of the key features the Council wanted to borrow from the Santa Monica ordinance is the requirement of an onsite "host" during the rental, which is designed to monitor activity, prevent nuisance issues from arising, and facilitate prompt correction of any problems that develop. Second, the Council wanted to implement Santa Monica's system for preventing online platforms from completing transactions for illegal rentals, which has been upheld by the courts.

Staff conferred with both City of Santa Monica staff and Michael Lustig[2] about the best way to integrate these, and other, aspects of the Santa Monica ordinance while also addressing conditions that are unique to Malibu. Santa Monica is a charter city with a robust rent control system, different municipal code that uses different terms, larger population, significantly larger and more dense multifamily zones, greater population of renters, and no LCP,[3] thus significant differences exist between the cities.

To achieve the Council's goals, the proposed ZTA and LCPA incorporate key features from Santa Monica's ordinance, including platform liability requirements. Some aspects of

[1] CCC staff sent a letter dated 9/20/18 that was included as Attachment 2 to the August 10, 2020 Council agenda report that is included here as Exhibit 5.

[2] City Council direction on December 3, 2019, included that staff consult with Michael Lustig in preparation of the Hosted Ordinance.

[3] At this time, the City of Santa Monica has a Land Use Plan, which is a policy document, but has not achieved certification of a LIP by the CCC. As such, it does not have a certified LCP, and there would be no requirement to amend because a LIP does not exist.

the Santa Monica's ordinance have been adapted to fit appropriately into the City of Malibu context. Adaptations of the Santa Monica ordinance for Malibu include:

- Hosted short-term rental vs. home-share. Santa Monica uses the term home-share[4] to refer to short-term rentals in which the host lives in the rented dwelling unit for the duration of the rental. The Council explicitly stated it wanted an onsite presence during the rental but did not want to require the host to be within the rented unit itself. The proposed amendments use the term "hosted" short-term rental to indicate that while the owner or designated operator must live onsite, that person need only live on the property, not in the same dwelling unit, during the rental.

- Owner and designated operator vs. primary resident. Santa Monica's ordinance requires that the primary resident (which can be the owner OR a renter) of the property must live onsite for the duration of the short-term rental. The draft Hosted Ordinance tracks the Council's goal of onsite monitoring but provides some limited flexibility by allowing the property owner to assign a "designated operator" to live onsite instead of the owner except that a designated operator, other than the owner, for up to 60 days cumulatively per calendar year, so long as the designated operator is required to: (1) resolve any nuisance or compliance issues, (2) produce records, and (3) allow Code Enforcement Officers to enter the property. Under the terms of the City's proposed Hosted Ordinance, the designated operator would also have to be located onsite between the hours of 9:00 p.m. and 6:00 a.m.

- Proof of Primary Residency. Santa Monica requires primary residents to submit two forms of documentation to provide proof of primary residency. As part of the City of Malibu's Woolsey Fire Rebuild Fee Waiver program, the City established that applicants can demonstrate primary residency with an active voter registration, a valid driver's license or other government issued identification card. The proposed ordinance is consistent with the primary residence documentation requirements established as part of the City's Fee Waiver Program for fire rebuilds.

- Multifamily Rentals. Council directed that up to two multifamily dwelling units on a parcel (not to exceed 40% of the units on a parcel) may be rented un-hosted so long as the other units on the property are rented on a long-term basis. This system prevents the conversion of multifamily units into unregistered hotels, protects some of the lowest cost housing in the City, and encourages units to be rented long-term at lower rent as short-term rental is only allowed if all other units are at full occupancy.

[4] The City of Los Angeles uses the term "home-sharing" to refer to all short-term rental of residential property regardless of whether the host is present or not.

- Duplex Rentals. The Malibu ordinance allows one unit of a duplex to be rented short-term if the owner lives onsite in the other unit and is present during the hours of 9 pm and 6 am. A designated operator may be used for up to 60 days.

- Eligible Permit Applicants. The City's proposed ordinance only allows owners of residential or multifamily properties to apply for short-term rental permits. The City of Santa Monica also allows renters who can provide proof that their primary residence was the unit in question for the prior 12 months to apply for a short-term rental permit

- Parking. Santa Monica allows guests to park one vehicle per bedroom rented on the street or, if the short-term rental is located in a preferential parking zone, only two vehicles can use visitor parking permits. Per Council's direction on August 10, 2020, STR parking restrictions have been removed from the ordinance.

- Neighborhood Notification. Once a short-term rental permit is issued, the City will provide (at the permit holder's expense) all neighbors within 500 feet the contact information for the owner or designated operator of the short-term rental so that they can directly contact the onsite host with any concerns that may arise. This is not included in the Santa Monica ordinance.

Next Steps

If Ordinance No. 472 and Resolution No. 20-51 are approved by the Council, the LCPA will then be submitted to CCC for certification.

Upon final certification of the amendment, and likely starting before, the City will conduct an extensive public outreach program to notify property owners of the upcoming policy changes, followed by coordination with Host Compliance or another vendor, Code Enforcement and the Sheriff's Department to implement and enforce the new regulations.

The City will also conduct a fee study to establish the Hosted ordinance permit fees (HSTR and MSTR).

Coordination with the Short-Term Rental Enforcement Ordinance Adopted September 29

On September 14, City Council held a public hearing and conducted the first reading the Enforcement Ordinance. On September 29, City Council adopted the Enforcement Ordinance on second reading. The Enforcement Ordinance establishes a short-term rental permit system and prohibits all STR activity as of January 15, 2021, unless conducted pursuant to a valid STR permit and in compliance with the ordinance. The Enforcement

Ordinance was designed to provide enforcement tools to address negative and nuisance impacts of short-term rentals while the Hosted Ordinance is processed.

The Hosted Ordinance largely mirrors the regulatory and enforcement structure of the Enforcement Ordinance to avoid conflict between the ordinances and facilitate the implementation of the Hosted Ordinance once LCPA is certified by the CCC. The main adjustment will be imposing the onsite host requirement and multifamily limitations. The other regulatory and administrative requirements including the revocation and appeals process will be largely the same.

Current Market Landscape

The City currently contracts with Host Compliance to monitor STR listings online. According to Host Compliance, there were 438 properties in or near Malibu advertised for short-term rental as of October 2, 2020.

Administration and Code Enforcement Personnel

Prior to the final LCPA adoption, the City will ensure that it has the appropriate consultant support and personnel necessary to administer and enforce the new requirements including the onsite host and multifamily provisions. If a budget amendment is needed to support these additional resources, it will be presented to Council as part of the budget process. The City currently has a contract with Host Compliance to monitor short-term rentals in Malibu across over 50 rental booking internet platforms.

Once the ordinance is in effect, staff will work with Host Compliance or another contract provider if needed, to monitor online compliance with the adopted regulations, process permit applications through an online portal, operate a short-term rental hotline for residents to report violations and administer TOT collection. Planning and Management and Administrative staff will implement and administer the STR permitting program. Code Enforcement staff in cooperation with the Sheriff's Department will investigate complaints, issue citations, and work to resolve violations, including any related to large events. Additional enforcement including short-term rental sting operations may be necessary to ensure compliance with all regulations.

ENVIRONMENTAL REVIEW: The Planning Department has analyzed the proposed project in accordance with the authority and criteria contained in the CEQA, the State CEQA Guidelines, and the environmental regulations of the City. The Planning Department determined 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place

and that of owners and long-term renters. Further, the Ordinance is exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines which states that permitting and licensing of existing private structures involving negligible or no expansion of existing or former use in that the proposed short-term rental permitting program will establish rules and regulations that do not expand existing residential uses. Additionally, the Ordinance is exempt pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) in that the regulatory program established will facilitate enforcement actions, such as permit revocation, for nuisance short-term rental properties. Finally, in accordance with the CEQA, Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This Ordinance is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect.

CORRESPONDENCE: Correspondence from the public received for September 14, 2020 public hearing is available on City's short-term rental website, malibucity.org/str. Correspondence received after the September 14 Council Meeting is included with this report as Exhibit 6.

PUBLIC NOTICE: For LCPA 19-003 and ZTA 19-005, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties; and all owners/operators currently registered with the City's TOT Program on October 1, 2020 (Exhibit 7). In addition, posts were made on the City's social media platforms

EXHIBITS:

1. Ordinance No. 472 (Hosted Ordinance LCPA 19-003 and ZTA 19-003)
2. Resolution No. 20-51 (LCPA No. 19-003)
3. Planning Commission Resolution No. 20-35
4. Council Agenda Report for September 14, 2020
5. Letter from CCC staff dated July 29, 2020
6. Correspondence received after September 14, 2020 Council meeting
7. Notices of Public Hearing

ORDINANCE NO. 472

AN ORDINANCE OF THE CITY OF MALIBU AMENDING THE LOCAL COASTAL PROGRAM (LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003) AND TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE (ZONING TEXT AMENDMENT NO. 19-005) REGULATING THE RENTAL OF RESIDENTIAL UNITS FOR 30 DAYS OR LESS (SHORT-TERM RENTALS) INCLUDING, BUT NOT LIMITED TO, REQUIRING THE PRESENCE OF AN ONSITE HOST DURING SHORT-TERM RENTALS AND OTHER RESTRICTIONS, AND CLARIFYING PERMITTED USES RELATED TO SHORT-TERM RENTAL CITYWIDE, AMENDING CHAPTER 15.44 PERTAINING TO OPERATING PERMITS FOR ONSITE WASTEWATER TREATMENT SYSTEMS AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby ordain 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 platforms that consolidate and facilitate the short-term rental of property, the City has seen increased violations of its prohibition against illegal hotel, motel, and bed and breakfast inn 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 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the

EXHIBIT 1

draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

J. The September 11, 2018 City Council Regular Meeting was cancelled.

K. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

L. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

M. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

N. On June 24, 2019, the City Council authorized the City Manager to execute the Professional Services Agreement with Raftelis Financial Consultants, Inc. for financial analysis services to examine the short- and long-term financial implications of a potential ban on short-term rentals.

O. On October 3, 2019, the City Council Administration and Finance Subcommittee, received a report the short and long-term financial implications of a potential ban on STRs and recommended that requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

P. On October 28, 2019, the City Council received financial analysis on the

implications and potential impacts of a ban on short-term rentals. Council also discussed the potential options and procedures for banning short-term rentals, whether an amendment to the Local Coastal Program (LCP) is necessary for a short-term rental ban, and approaches other coastal cities have taken to legislate short-term rentals and associated litigation in those cities. Council directed staff to initiate a ZTA and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals to include provisions similar to Santa Monica's home-sharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance (ZTA No. 17-002) to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

Q. On December 3, 2019, the City Council held a duly noticed public hearing on ZTA No. 17-002. The City Council did not move forward with ZTA No. 17-002 at that time but did adopt Resolution No. 19-53 initiating a new LCPA No. 19-003 and ZTA No. 19-005 to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica's ordinance requires the presence of an onsite host within the rented dwelling unit, known as a "home-share" or a "hosted" rental. The City Council's direction was to require a "host" to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The City Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included.

R. On March 5, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

S. Beginning in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings began to be held virtually in April. Legislative matters drawing extensive public interest were temporarily postponed. On June 8, 2020, the Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission for a virtual public hearing.

T. On June 22, 2020, in response to immediate resident concerns about neighborhood impacts from short-term rentals, the City Council directed staff to bring back the ordinance presented to the City Council on December 3, 2019 (ZTA No. 17-002) establishing provisions to regulate short-term rental property.

U. On July 16, 2020, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu.

V. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record pertaining to hosted short-term rental regulations. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City Council adopt ZTA No. 19-005, with modifications, including that short-term rental of guest houses not be allowed, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

W. On August 10, 2020, the City Council held a duly noticed public hearing on ZTA No. 17-002 (Ordinance No. 468), reviewed and considered the staff report, written reports, public testimony, and other information in the record. City Council continued Ordinance No. 468 to the September 14, 2020, Regular meeting in order to consider it concurrently with the hosted short-term rental amendments (LCPA No. 19-003 and ZTA No. 19-005) and with a revised version of Ordinance No. 468. Council directed staff to modify Ordinance No. 468 in order to remove the primary resident requirement and certain other requirements to focus on providing enforcement tools against nuisance properties while LCPA No. 19-003 is being processed.

On September 14, 2020, the City Council held a duly noticed public hearing on the hosted short-term rental amendments (LCPA No. 19-003 and ZTA No. 19-005), reviewed and considered the staff report, the recommendation of the Planning Commission, written reports, public testimony, and other information in the record. Council continued to a date uncertain the public hearing and directed staff to bring back the Hosted Amendments (Ordinance No. 472 and Resolution No. 20-51) amended to: a) allow guest houses to be used for short-term rentals but require that a short-term rental permit designate only one specific unit on the single-family residential property to be listed, b) require the property owner to be onsite during short-term rental except that a designated operator, other than the owner, is allowed to host short-term rentals for up to two months cumulatively per calendar year with two-week notice to the City modifying the short-term rental permit, c) require designated operator to be present onsite between the hours of 9:00 p.m. and 6:00 a.m. during hosted short-term rentals, d) allow one unit of a duplex to be rented short-term if the owner lives onsite in the other, and e) allow up to 40%, up to two units maximum (whichever is fewer), of multifamily properties to be rented short-term if the other onsite units are rented long-term.

X. On September 14, 2020, the City Council also approved on first reading Ordinance No. 468 (the Enforcement Ordinance) and adopted it on September 29, 2020.

Y. On October 1, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

Z. On October 26, 2020, the City Council Regular meeting was adjourned to November 5, 2020.

AA. On November 5, 2020, the City Council held a duly noticed public hearing on the Hosted Amendments (LCPA No. 19-003 and ZTA No. 19-005) consisting of Ordinance No. 472 and Resolution No. 20-51, reviewed and considered the staff report, written reports, public testimony, and other information in the entire record of the City's consideration of short-term rental regulations.

SECTION 2. Local Coastal Program Amendments.

The LCP Local Implementation Plan (LIP) is amended as follows:

A. LIP Section 2.1 is hereby amended by adding the following definitions, inserted in alphabetical order:

DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and
C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for

compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

B. LIP Section 3.3(Q)(2)(a) Planned Development (PD) Zone is amended to add subsection (v) to section (a):

a. Lot Nos. 1—5

i. One single-family residence per lot.
ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
iii. Domestic animals, kept as pets.
iv. Landscaping.
v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

C. LIP Section 13.31 is added to LIP Chapter 13 (Coastal Development Permits) to read as follows:

13.31 Short-term Rental of Residential Property

A. No coastal development permit is required nor is the City required to maintain a record of coastal development permit exemption pursuant to LIP Section 13.4.10 for short-term rental of residential property as defined in Section 2.1 of this LIP provided that such use meets all of the following criteria:

1. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.
2. The short-term rental use is conducted in a dwelling unit that was lawfully established as described in LIP Section 13.3(F).
3. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

D. LIP Table B – Permitted Uses (Key to Table) is amended to read as follows:

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	**Permitted use**
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**
CUP	**Requires the approval of a Conditional Use Permit**
A	**Permitted only as an accessory use to an otherwise permitted use**
LFDC	**Requires the approval of a Large Family Day Care permit**
WTF	**Requires the approval of a Wireless Telecommunications Facility**

STR	**Use requires valid short-term rental permit approved by the City**
·	**Not permitted (Prohibited)**

E. LIP Table B – Permitted Uses is amended by inserting the following new use category to the end of the Residential section of the table after the "Home Occupation" category and adding a new footnote 21:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Short-term rental	STR[21]	STR[21]	STR[21]	STR[21]	STR[21]	·	·	·	·	·	·	·	·	·	·	·

21. Single-family residence properties are limited to hosted short-term rental permits only; one dwelling unit in a duplex may be rented unhosted if the owner or designated operator lives onsite in the other dwelling unit during the rental period; and for multifamily properties, a maximum of two dwelling units per parcel, or 40%, whichever is less, may be devoted to short-term rental use.

SECTION 3. LCP Amendment Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed LCPA No. 19-003 meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act as follows:

A. The amendment maintains standards to require that uses and development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will assure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

B. The amendment will be consistent with the following policies:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

No conversion or removal of lower cost opportunities for visitor-serving accommodations results from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which can be more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to be used for short-term rentals, which is currently prohibited.

2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost

opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

SECTION 4. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is amended as follows:

A. MMC Section 17.02.060 (Definitions) is hereby amended to add the following definitions, inserted in alphabetical order:

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Designated operator" means any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Guest House" means detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing

no kitchen facilities and not rented or otherwise used as a separate dwelling. Guest houses may be used for short-term rentals pursuant to a valid short-term rental permit issued by the City.

"Hosted short-term rental" means a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with Section 17.55.040.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

"Lives onsite" means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit. This definition is applicable to Chapter 17.55 only.

"Owner" means any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner. This definition is applicable to Chapter 17.55 only.

"Primary Residence" means the usual place of return for housing of an owner as documented to the satisfaction of the City Manager by an active voter registration, a valid driver's license or other government issued identification card with the address of the property. A person can only have one primary residence. This definition is applicable to Chapter 17.55 only.

"Short-term rental" of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

B. MMC Section 17.08.020 (Permitted Uses, Rural Residential) is amended to add subsection L:

L. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

C. MMC Section 17.10.020 (Permitted Uses, Single Family) is amended to add subsection I:

I. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

D. MMC Section 17.12.020 (Permitted Uses, Multiple Family) is amended to add subsection J:

J. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

E. MMC Section 17.14.020 (Permitted Uses, Multifamily Beachfront) is amended to add subsection I:

I. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

F. MMC Section 17.16.020 (Permitted Uses, Mobile Home) is amended to add subsection C:

C. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

G. MMC Chapter 17.55 (Short-term Rental of Property) is hereby amended to read as follows:

Section 17.55.010 Short-Term Rental of Property

A. Hosted short-term rental of single-family residential property, and the short-term rental of up to two dwelling units on a multifamily housing parcel, is allowed as specified in Section 17.55.040 if conducted in compliance with this Chapter 17.55 and the owner complies with each of the following requirements:
    1. Obtains and maintains at all times a Short-Term Rental Permit issued pursuant to this Chapter.
    2. Operates the short-term rental activity in compliance with all permit conditions for short-term rental as set forth in Section 17.55.020 and any regulations promulgated pursuant to this Chapter.
    3. Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 3.24 of this Code.
    4. Takes responsibility for and actively prevents any nuisance activities that may take place as a result of short-term rental activities.
    5. Is available, or a designated operator is available, 24 hours a day, 7 days a week, at a phone number provided to both the City and any guest staying at the property to immediately answer a call from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property. No person may serve as a designated operator for more than one hosted short-term rental concurrently.
    6. Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
    7. Limits the occupancy of the short-term rental (including the host, guests, and any other natural persons) to two people more than twice the number of bedrooms listed on City or County records as determined by the Planning Director up to a maximum of 14 people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.

8. Maintains liability insurance to cover the short-term rental of property with minimum limits of not less than $500,000 or conducts each short-term rental transaction through a hosting platform that provides equal or greater coverage.
9. Complies with Section 17.55.080 governing advertisements of short-term rentals.
10. Provides all guests with the Short-term Rental Code of Conduct, which shall be developed by the City Manager, and posts the same on the inside of the main entrance door to the dwelling unit rented, or on the wall adjacent thereto.
11. Provides 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 her/his designee for purposes of inspection or audit in compliance with federal and state law.
12. Complies with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
13. Maintains a valid Onsite Wastewater Treatment System (OWTS) operating permit pursuant to Chapter 15.44 or has entered a compliance agreement with the City excusing such compliance and is in full compliance with the compliance agreement and not in default or breach.

Section 17.55.020 Short-Term Rental Permit Required

A. No person shall offer, facilitate an offer, or allow the short-term rental of property in any location not specifically identified and approved on a valid short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.

B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit. Each permit may include only one listing, and shall designate the dwelling unit, or portion thereof, that is to be rented.

C. Application Required. To obtain a short-term rental permit an owner shall submit an application on a form to be provided by the City and signed by the owner under penalty of perjury.

D. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:

1. Address of the proposed short-term rental
2. Type of dwelling unit
3. Contact information for the owner of the property
4. Contact information for the designated operator, if a designated operator will live onsite for the hosted short-term rental
5. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.010(A)(14) paired with

an attestation that the owner is in full compliance with the compliance agreement and not in default or breach

6. Attestation and agreement to comply with the requirements of this Chapter
7. Proof that the owner is in compliance with Chapter 3.24 of this code
8. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property
9. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that owner has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the owner maintains a short-term rental permit for the property.
10. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy
11. Attestation of compliance with the required insurance coverage
12. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis
13. The type of short-term rental permit sought: hosted or multifamily
14. If seeking a hosted short-term rental permit, proof of primary residency and attestation that the location is the owner's primary residence, meaning that the owner lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the owner's primary residence for the duration of the permit shall suffice
15. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire parcel, and an attestation that all dwelling units (except for two) are rented on a long term-basis per Section 17.55.040(B). The permit holder shall maintain copies of the leases for all tenants documenting compliance at all times with Section 17.55.040(B) for a period of three years following the expiration of the short-term rental permit.

E. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.

F. Notice of Approval. Upon approval, the Planning Director shall provide, at the owner's expense, the contact information for the owner or designated operator identified in 17.55.010(A)(5) to all dwelling units within 500 feet of the short-term rental unit's parcel boundary.

G. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

H. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes, or immediately for any change in the owner or designated operator's contact information. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection (D) of this Section shall constitute a material change. A permittee may not cure a violation of this Chapter by seeking to amend a short-term rental permit after a violation occurs; short-term rental of a property may only be conducted as specifically authorized by an active short-term rental permit.

I. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.

J. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.

K. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

L. Possession of a STR permit does not excuse any other permitting requirements of this code including but not limited to TOT and special event permit requirements.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:

1. The owner has not paid all TOT due or is not in compliance with Chapter 3.24 of this code.

2. The property has outstanding code enforcement violations.

3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.

4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.

5. The owner has failed to amend an application as required by Section 17.55.020(H).

6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter.

7. The property has received two or more citations for violation of the City's noise ordinance within a period of 12 consecutive months.
8. Failure to comply with Section 17.55.010(A)(13)
9. A holder of a Hosted Short-term Rental Permit receives three or more citations for violation of any combination of the following requirements within a period of 12 consecutive months, or a holder of a Multifamily Short-term Rental Permit receives two or more citations for violation of any combination of the following requirements within a period of 12 consecutive months:
    i. The requirements of Sections 17.55.010(A)(4), (7), (10), (11), 17.55.040(A), and Section 17.55.080.

17.55.040 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Hosted Short-term Rental Permit. A primary resident owner may obtain this type of permit which allows hosted short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. The owner must live onsite during any period of rental, and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner must be located onsite, and present immediately upon request, during the hours of 9 p.m. to 6 a.m. during any period that the unit is rented. A designated operator may fulfill the owner obligations listed in the prior two sentences for up to 60 days cumulatively during a calendar year so long as the owner provides the City written notice and contact information for the designated operator, two weeks in advance of the rental date, in a form acceptable to the City. Multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that a primary resident owner of a condominium unit may obtain this type of permit for the unit where he or she has established his or her primary residence.

B. Multifamily Short-term Rental Permit. Owners of entire parcels that have multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two units, or 40% of the units on the parcel (whichever is less), so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term. The owner of both units of a duplex may also

obtain this type of permit to rent one unit if the owner lives onsite during any period of rental in the other unit. The owner of the duplex must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner the duplex must be located onsite, and present immediately upon request, during the hours of 9 p.m. to 6 a.m. during any period that the unit is rented. A designated operator may fulfill the owner obligations listed in the prior three sentences for up to 60 days cumulatively during a calendar year so long as the owner provides the City written notice and contact information for the designated operator, two weeks in advance of the rental date, in a form acceptable to the City

17.55.050 Renewal of Short-term Rental Permit

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.

B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.

C. No permit shall be renewed unless all city fees and taxes owed by the owner are paid in full, including the renewal fee.

17.55.060 Effect of Denial or Revocation of Short-term Rental Permit

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that owner and location for a 12 month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the owner knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(9), or (3) two or more citations for violation of the City's noise ordinance in a period of 12 consecutive months, a new application shall not be approved for a period of at least 12 months from the date of the last violation or short-term rental of the property, whichever is later.

B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of 12 months from the date of revocation.

C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other penalty) result in the property and owner being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for

each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.

D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.070 Appeals

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.

B. The completed appeal form must be delivered to the City Clerk within 30 calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.

C. Failure to deliver the completed appeal form as required by section (B) above will result in the denial or revocation being deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.

E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 Advertisement and Facilitation of Short-term Rentals

A. The owner shall include and prominently post the following information in any advertisement for short-term rental:

1. The short-term rental permit number issued by the City;

2. That the owner lives onsite and the owner or designated operator will live onsite throughout the visitor's stay unless the advertisement is for a permitted multifamily short-term rental;

3. The permitted occupancy of the short-term rental as specified in the short-term rental permit application; and

4. Any other information required by regulations promulgated pursuant to this Chapter.

B. No advertisements regarding the availability of a dwelling unit for short-term rental shall be posted in or on any exterior area of the dwelling unit, any exterior area of any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.

C. The address of the property shall be prominently displayed.

D. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental.

E. Any offer or advertisement for the short-term rental of property in the City that does not contain a valid short-term rental permit number, or which the City identifies as illegal to the person or entity advertising or offering the rental, shall be immediately removed from any location it is posted, whether online or otherwise.

17.55.090 Hosting Platform Responsibilities

A. Hosting platforms shall be responsible for collecting all applicable TOT and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the TOT the Hosting platform failed to collect and/or remit to the City.

B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.

C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.

D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.

E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C), and (D) above, shall be presumed to be in compliance with this Chapter. If technical issues pose a substantial obstacle to compliance with this Section, a hosting platform may also satisfy these obligations pursuant to a compliance agreement with the City that prevents booking transactions for unpermitted short-term rentals, collects all transient occupancy tax due, and complies with the disclosure requirements of this Section..

F. The provisions of this Section 17.55.090 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.100 Regulations

The City Manager or designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.110 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 Section 17.55.020(A) by an owner shall be subject to a fine of $1000 per day or violation, or twice the short-term rental's advertised daily rental rate per day or violation, whichever is higher, and for all other violations an owner shall be subject to a fine of $500 per day or violation, or the short-term rental's advertised daily rental rate per day or violation, whichever is higher.

B. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code or local coastal program committed by guests at the property.

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.

H. MMC Title 17 – Appendix 1 (Permitted Uses Table) – Key to Table is hereby amended to read as follows:

KEY TO TABLE (In addition to a coastal development permit where applicable, MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	Permitted use
MCUP	Requires the approval of a minor Conditional Use Permit by the Director
CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility
STR	Use requires valid short-term rental permit approved by the City
•	Not permitted (Prohibited)

I. MMC Title 17 – Appendix 1 – (Permitted Uses Table) is amended by inserting the following new use category after the "Home Occupations" use category in the table and a new footnote 32:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Short-term rental	STR[32]	STR[32]	STR[32]	STR[32]	STR[32]	·	·	·	·	·	·	·	·	·	·	·

32. Single-family residence properties are limited to hosted short-term rental permits only; one dwelling unit in a duplex may be rented unhosted if the owner or designated operator lives onsite in the other dwelling unit during

the rental period; and for multifamily properties, a maximum of two dwelling units per parcel, or 40%, whichever is less, may be devoted to short-term rental use.

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SECTION 6. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be made prior to or concurrent with the application for a short-term rental permit. An operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 7. Zoning Text Amendment Findings.

The City Council hereby finds that ZTA No. 19-005 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], protect rural residential character [General Plan LU Policy 1.1.4], protect and preserve the unique character of the City's distinct neighborhoods, and conserve affordable housing in the Coastal Zone [General Plan Housing Policy 1.4].

ZTA No. 19-005 will support these policies by introducing regulations to reduce the impact of short-term rentals on neighbors and the community.

SECTION 8. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters. Further, the Ordinance is exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines which states that permitting and licensing of existing private structures involving negligible or no expansion of existing or former use in that the proposed short-term rental permitting program will establish rules and regulations that do not expand existing residential uses. Additionally, the Ordinance is exempt pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) in that the regulatory program established will facilitate enforcement actions, such as permit revocation, for nuisance short-term rental properties. Finally, in accordance with the CEQA, Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This Ordinance is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect.

SECTION 9. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 10. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit the LCP amendments contained in Section 2 of this Ordinance to the California Coastal Commission per Title 14, California Code of Regulations Section 13554.5(a).

SECTION 11. Effectiveness.

The LCP amendment and corollary ZTA approved in this Ordinance shall become effective only upon certification by the California Coastal Commission of this amendment to the LCP.

SECTION 12. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2020.

_____
MIKKE PIERSON, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

_____
CHRISTI HOGIN, City Attorney

RESOLUTION NO. 20-51

A RESOLUTION OF THE CITY OF MALIBU DETERMINING LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003 IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND AMENDING THE LOCAL COASTAL PROGRAM LAND USE PLAN TO MODIFY CHAPTER 3 PERTAINING TO SHORT-TERM RENTALS (CITYWIDE)

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

SECTION 1. Recitals.

A. The City of Malibu wishes to address the potential impacts of short-term rental of residential property and protect the neighborhood character in the City by adopting regulations for the short-term rental of property that prohibit use inconsistent with the General Plan and impose prohibitions and regulations consistent thereof.

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

C. On May 23, 2017, the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City Council reviewed a draft ordinance (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

D. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

E. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

F. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

G. The September 11, 2018 City Council Regular Meeting was cancelled.

H. On September 26, 2018, the City Council held a duly noticed public hearing

on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

I. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

J. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

K. On June 24, 2019, the City Council authorized the City Manager to execute the Professional Services Agreement with Raftelis Financial Consultants, Inc. for financial analysis services to examine the short- and long-term financial implications of a potential ban on short-term rentals.

L. On October 3, 2019, the City Council Administration and Finance Subcommittee, received a report the short and long-term financial implications of a potential ban on STRs and recommended that requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

M. On October 28, 2019, the City Council received financial analysis on the implications and potential impacts of a ban on short-term rentals. Council also discussed the potential options and procedures for banning short-term rentals, whether an amendment to the Local Coastal Program (LCP) is necessary for a short-term rental ban, and approaches other coastal cities have taken to legislate short-term rentals and associated litigation in those cities. Council directed staff to initiate a ZTA and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals to include provisions similar to Santa Monica's home-sharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance (ZTA No. 17-002) to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

N. On December 3, 2019, in compliance with Local Coastal Program (LCP) Local Implementation Plan (LIP) Chapter 19, the City Council adopted Resolution No. 19-53 to initiate Local Coastal Program (LCP) Amendment No. 19-003 to consider changes to the Malibu LCP and Zoning Text Amendment (ZTA) No. 19-005 to consider changes to Title 17 (Zoning) of the Malibu Municipal Code (MMC) and provided direction to staff on the definitions and regulations to include in the proposed amendments.

O. On March 5, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

P. Beginning in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings began to be held virtually in April. Legislative matters drawing extensive public interest were temporarily postponed.

Q. On March 12, 2020, the Special Planning Commission meeting of March 30, 2020 was adjourned to April 6, 2020 due to the COVID-19 pandemic.

R. On April 6, 2020, the Planning Commission continued the item to a date uncertain.

S. On June 8, 2020, Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission with a virtual public hearing.

T. On July 2, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

U. On July 16, 2020, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu.

V. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City Council adopt ZTA No. 19-005, with modifications, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

W. On August 20, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu.

X. On September 14, 2020, the City Council held a duly noticed public hearing on the Hosted Amendments (LCPA No. 19-003 and ZTA No. 19-005), reviewed and considered the staff report, the recommendation of the Planning Commission, written

reports, public testimony, and other information in the record. Council continued to a date uncertain the public hearing and directed staff to bring back the Hosted Amendments (Ordinance No. 472 and Resolution No. 20-51) amended to: a) allow guest houses to be used for short-term rentals but require that a short-term rental permit designate only one specific unit on the single-family residential property to be listed, b) require the property owner to be onsite during short-term rental except that a designated operator, other than the owner, is allowed to host short-term rentals for up to two months cumulatively per calendar year with two-week notice to the City modifying the short-term rental permit, c) require designated operator to be present onsite between the hours of 9:00 p.m. and 6:00 a.m. during hosted short-term rentals, d) allow one unit of a duplex to be rented short-term if the owner lives onsite in the other, and e) allow up to 40%, up to two units maximum (whichever is fewer), of multifamily properties to be rented short-term if the other onsite units are rented long-term.

Y. On September 14, 2020, the City Council also approved on first reading Ordinance No. 468 (the Enforcement Ordinance) and adopted it on September 29, 2020.

Z. On October 1, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

AA. On October 26, 2020, the City Council Regular meeting was adjourned to November 5, 2020.

BB. On November 5, 2020, the City Council held a duly noticed public hearing on the Hosted Amendments (LCPA No. 19-003 and ZTA No. 19-005) consisting of Ordinance No. 472 and Resolution No. 20-51, reviewed and considered the staff report, written reports, public testimony, and other information in the entire record of the City's consideration of short-term rental regulations.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCPA and therefore, does not apply to this application. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect

SECTION 3. Local Coastal Program Amendment Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed LCPA No. 19-003 meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act as follows:

A. The amendment maintains standards to require that development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal

resources. In particular, the amendment will assure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

B. The amendment will be consistent with the following policies:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

SECTION 4. Local Coastal Program Amendment No. 19-003.

LCPA No. 19-003 includes the following amendments.

A. Amend LUP Chapter 5 (New Development), Section C (Land Use Policies), Subsection 2 (Land Use Designations) to replace the land use designation descriptions below with the amended language to read as follows:

RURAL RESIDENTIAL (RR): The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. Short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City. The following maximum residential density standards shall apply:

RR1	One dwelling unit per acre
RR2	One dwelling unit per 2 acres
RR5	One dwelling unit per 5 acres
RR10	One dwelling units per 10 acres
RR20	One dwelling unit per 20 acres
RR40	One dwelling unit per 40 acres

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. Short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MOBILE HOME RESIDENTIAL (MHR): The MHR designation is intended to accommodate existing mobile home parks and associated facilities. Short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MULTI-FAMILY RESIDENTIAL (MF): The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted. Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

B. Amend LUP Policy 5.20 to read as follows:

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other

policies of the LCP may further limit the maximum allowable density of development. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

C. Amend LUP Policy 2.34 to read as follows:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

SECTION 5. Approval.

Subject to the contingency set forth in Section 8, the City Council hereby adopts LCPA No. 19-003, amending the LCP.

SECTION 6. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA No. 3-001 to the CCC for certification, in conformance with the submittal requirements specified in California Code of Regulations, Title 14, Division 5.5., Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations section 13551, et. seq.

SECTION 7. Effectiveness.

The LCP amendment approved in this Resolution shall become effective only upon its certification by the CCC.

SECTION 8. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 5th day of November 2020.

_____
MIKKE PIERSON, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE
CHRISTI HOGIN, City Attorney

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 20-35

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE AMENDMENT TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND RECOMMENDING THAT THE CITY COUNCIL ADOPT ONLY ZONING TEXT AMENDMENT NO. 19-005 REGULATING THE RENTAL OF RESIDENTIAL UNITS FOR 30 DAYS OR LESS (SHORT-TERM RENTALS) INCLUDING BUT NOT LIMITED TO REQUIRING THE PRESENCE OF AN ONSITE HOST DURING CERTAIN SHORT-TERM RENTALS, AND OTHER RESTRICTIONS (CITYWIDE)

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

SECTION 1. Recitals.

A. The City of Malibu wishes to address the potential impacts of short-term rental of residential property and protect the neighborhood character in the City by adopting regulations for the short-term rental of property that prohibit use inconsistent with the General Plan and impose prohibitions and regulations consistent thereof.

B. On December 3, 2019, in compliance with Local Coastal Program Local Implementation Plan Chapter 19, the City Council adopted Resolution No. 19-53 to initiate a Local Coastal Program (LCP) Amendment to consider changes to the Malibu LCP and a Zoning Text Amendment (ZTA) to consider changes to Title 17 (Zoning) of the Malibu Municipal Code (MMC) and provided direction to staff on the definitions and regulations to include in the proposed amendments.

C. On March 5, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

D. On March 12, 2020 the Special Planning Commission meeting of March 30, 2020 was adjourned to April 6, 2020 due to the COVID-19 pandemic.

E. On April 6, 2020, the Planning Commission continued the item to a date uncertain.

F. On July 2, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

G. On July 16, 2020, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu.

H. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City

EXHIBIT 3

Council adopt ZTA No. 19-005, with modifications, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. Local Implementation Plan (LIP) Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of, the exempt activity, they are subject to the same CEQA exemption.

The Planning Commission has analyzed the project proposal described herein. The California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Commission determined that there is no possibility the amendment will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Zoning Text Amendment.

The Planning Commission hereby recommends that the City Council amend the MMC as detailed in Exhibit A.

SECTION 4. Zoning Text Amendment Findings.

Pursuant to MMC section 17.74.040, the Planning Commission hereby makes the following findings and recommends to the City Council that the MMC be amended as stated in Exhibit A of this resolution.

A. The subject zoning text amendment is consistent with the objectives, policies, general land uses and programs specified in the General Plan. The proposed amendment serves to enhance the Malibu General Plan Mission Statement, protect public safety and preserve Malibu's natural and cultural resources.

B. The Planning Commission held a public hearing, reviewed the subject zoning text amendment application for compliance with the City of Malibu General Plan, Malibu Municipal Code and the Malibu Local Coastal Program, and finds that the zoning text amendment is consistent and recommends approval.

SECTION 5. Based on the above findings, the Planning Commission hereby recommends that the City Council approve the ZTA and detailed in Exhibit A.

SECTION 6. Additional Recommendations.

The Planning Commission hereby makes the following additional recommendations for City Council consideration as part of its deliberations on the proposed amendments.

A. The Planning Commission recommends that the City Council not adopt LCPA No. 19-003 or amend the LCP in any way pertaining to short-term rentals and find such amendment is not necessary.

B. The Planning Commission recommends that the Council update City Council Policy No. 43 (Code Enforcement Policy) to exclude short-term rental complaints from the requirement that written complaints be subject to inspection on request of the person(s) accused of the violation(s).

SECTION 7. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 29th day of July 2020.

JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-35 was passed and adopted by the Planning Commission of the City of Malibu at the special meeting thereof held on the 29th day of July 2020, by the following vote:

AYES:	5	Commissioners:	Marx, Uhring, Weil, Mazza, Jennings
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		

KATHLEEN STECKO, Recording Secretary

Exhibit A: Title 17 – Zoning Code Amendments

EXHIBIT A
Malibu Municipal Code Title 17
Zoning Text Amendment

A. MMC Section 17.02.060 (Definitions) is hereby amended by adding the following definitions, inserted in alphabetical order, or replacing where there is an existing definition:

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Designated operator" means any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Hosted short-term rental" means a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with Section 17.55.040.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

"Lives onsite" means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit. This definition is applicable to Chapter 17.55 only.

"Owner" means any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner. This definition is applicable to Chapter 17.55 only.

"Primary Residence" means the usual place of return for housing of an owner as documented to the satisfaction of the City Manager by an active voter registration, a valid driver's license or other government issued identification card with the address of the property. A person can only have one primary residence. This definition is applicable to Chapter 17.55 only.

"Short-term rental" of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

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

Section 17.55.010 Short-Term Rental of Property

A. Hosted short-term rental of single-family residential property, and the short-term rental of up to two dwelling units on a multifamily housing parcel, is allowed as specified in Section 17.55.040 if conducted in compliance with this Chapter 17.55 and the owner complies with each of the following requirements:

1. Obtains and maintains at all times a Short-Term Rental Permit issued pursuant to this Chapter.
2. Operates the short-term rental activity in compliance with all permit conditions for short-term rental as set forth in Section 17.55.020 and any regulations promulgated pursuant to this Chapter.
3. Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 3.24 of this Code.
4. Takes responsibility for and actively prevents any nuisance activities that may take place as a result of short-term rental activities.
5. Is available, or a designated operator is available, 24 hours a day, 7 days a week, at a phone number provided to both the City and any guest staying at the property to immediately answer a call from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property. No person may serve as a designated operator for more than one hosted short-term rental concurrently.
6. Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
7. Limits the occupancy of the short-term rental (including the host, guests, and any other natural persons) to two people more than twice the number of bedrooms listed on City or County records as determined by the Planning Director up to a maximum of 14 people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
8. Requires all persons present at the property during a period when there is a short-term rental of a property to park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces as determined by the Planning Director are exempt from this requirement, but no more than one (1) vehicle may be parked on the street by persons present at the property during the short-term rental of the property.
9. Maintains liability insurance to cover the short-term rental of property with minimum limits of not less than $500,000 or conducts each short-term rental transaction through a hosting platform that provides equal or greater coverage.
10. Complies with Section 17.55.080 governing advertisements of short-term rentals.

11. Provides all guests with the Short-term Rental Code of Conduct, which shall be developed by the City Manager, and posts the same on the inside of the main entrance door to the dwelling unit rented, or on the wall adjacent thereto.
12. Provides 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 her/his designee for purposes of inspection or audit.
13. Complies with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
14. Maintains a valid Onsite Wastewater Treatment System (OWTS) operating permit pursuant to Chapter 15.44 or has entered a compliance agreement with the City excusing such compliance, and is in full compliance with the compliance agreement and not in default or breach.

Section 17.55.020 Short-Term Rental Permit Required

A. No person shall offer, facilitate an offer, or allow the short-term rental of property in any location not specifically identified and approved on a valid short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.
B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit. Each permit may include up to two listings, one per dwelling unit.
C. Application Required. To obtain a short-term rental permit an owner shall submit an application on a form to be provided by the City and signed by the owner under penalty of perjury.
D. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:
    1. Address of the proposed short-term rental
    2. Type of dwelling unit and unit designation
    3. Contact information for the owner of the property
    4. Contact information for the designated operator, if a designated operator will live onsite for the hosted short-term rental
    5. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.010(A)(14) paired with an attestation that the owner is in full compliance with the compliance agreement and not in default or breach
    6. Attestation and agreement to comply with the requirements of this Chapter
    7. Proof that the owner is in compliance with Chapter 3.24 of this code
    8. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property
    9. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that owner has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the owner maintains a short-term rental permit for the property.

10. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy
11. Attestation of compliance with the required insurance coverage
12. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis
13. The type of short-term rental permit sought: hosted or multifamily
14. If seeking a hosted short-term rental permit, proof of primary residency and attestation that the location is the owner's primary residence, meaning that the owner lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the owner's primary residence for the duration of the permit shall suffice
15. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire building, and an attestation that all dwelling units (except for two) are rented on a long term-basis per Section 17.55.040(B). The permit holder shall maintain copies of the leases for all tenants documenting compliance at all times with Section 17.55.040(B) for a period of three years following the expiration of the short-term rental permit.

E. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.

F. Notice of Approval. Upon approval, the Planning Director shall provide, at the owner's expense, the contact information for the owner or designated operator identified in 17.55.010(A)(5) to all dwelling units within 500 feet of the short-term rental unit's parcel boundary.

G. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

H. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection (D) of this Section shall constitute a material change.

I. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.

J. No Transfer or Assignment. A short-term rental permit may not be assigned or transferred to another person.

K. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.

L. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

M. Possession of a short-term rental permit does not excuse the holder from any other requirements of this code, including but not limited to meeting transient occupancy tax or special event permit requirements.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit.

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:
   1. The owner has not paid all TOT due or is not in compliance with Chapter 3.24 of this code.
   2. The property has outstanding code enforcement violations.
   3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
   4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
   5. The owner has failed to amend an application as required by Section 17.55.020(H).
   6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter.
   7. The property has received more than one citation for violation of the City's noise ordinance within a period of 12 consecutive months.
   8. Failure to comply with Section17.55.010(A)(14)
   9. A holder of a Hosted Short-term Rental Permit receives a total of two citations for violation of any combination of the following requirements within a period of 12 consecutive months, or a holder of a Multifamily Short-term Rental Permit receives a total of two citations for violation of any combination of the following requirements within a period of 12 consecutive months:
      i. The requirements of Sections 17.55.010(A)(4), (7), (8), (11), (12), 17.55.040(A), and Section 17.55.080.

17.55.040 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Hosted Short-term Rental Permit. A primary resident owner may obtain this type of permit which allows hosted short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. The owner, or designated operator, must live onsite during any period of rental, and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner or designated operator must be located onsite, and present immediately upon request, during the hours of 8 p.m. to 6 a.m. during any period that the unit is rented. Multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that a primary resident owner of a condominium unit may obtain this type of permit for the unit where he or she has established his or her primary residence.
B. Multifamily Short-term Rental Permit. Owners of entire multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes,

condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to 40% of the units in the building, up to a maximum of two units, so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

17.55.050 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the owner are paid in full, including the renewal fee.

17.55.060 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that owner and location for a 12 month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the owner knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(9), or (3) more than one citation for violation of the City's noise ordinance in a period of 12 consecutive months, a new application shall not be approved for a period of at least 12 months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of 12 months from the date of revocation.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other penalty) result in the property and owner being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.
D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.070 Appeals.

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would

like to be considered.

B. The completed appeal form must be delivered to the City Clerk within 30 calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above will result in the denial or revocation being deemed final.
D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 Advertisement and Facilitation of short-term rentals

A. The owner shall include and prominently post the following information in any advertisement for short-term rental:
    1. The short-term rental permit number issued by the City;
    2. That the owner lives onsite and the owner or designated operator will live onsite throughout the visitor's stay unless the advertisement is for a permitted multifamily short-term rental;
    3. The permitted occupancy of the short-term rental as specified in the short-term rental permit application;
    4. The permitted number of visitor vehicles, in accordance with Section 17.55.010(A)(8);
    5. Any other information required by regulations promulgated pursuant to this Chapter.
B. No advertisements regarding the availability of a dwelling unit for short-term rental shall be posted in or on any exterior area of the dwelling unit, any exterior area of any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.
C. The address of the property shall be prominently displayed.
D. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental.
E. Any offer or advertisement for the short-term rental of property in the City that does not contain a valid short-term rental permit number, or which the City identifies as illegal to the person or entity advertising or offering the rental, shall be immediately removed from any location it is posted, whether online or otherwise.

17.55.090 Hosting platform responsibilities.

A. Hosting platforms shall be responsible for collecting all applicable TOT and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the TOT the Hosting platform failed to collect and/or remit to the City.
B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price

paid for each stay.

C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.

D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.

E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C), (D) and (E) above, shall be presumed to be in compliance with this Chapter and shall not be found in violation of Section 17.55.080.

F. The provisions of this Section 17.55.090 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.100 Regulations.

The City Manager or designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.110 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 Section 17.55.020(A) by an owner shall be subject to a fine of $1000 per day or violation, or twice the short-term rental's advertised daily rental rate per day or violation, whichever is higher, and for all other violations an owner shall be subject to a fine of $500 per day or violation, or the short-term rental's advertised daily rental rate per day or violation, whichever is higher.

B. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code or local coastal program committed by guests at the property.

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.

City Council Meeting
09-14-20
Item
4.A.

Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: September 3, 2020 Meeting date: September 14, 2020

Subject: Short-Term Rental (STR) Regulations (Continued from August 10, 2020)

RECOMMENDED ACTION: 1) Re-open Public Hearing on short-term rental regulations including Zoning Text Amendment (ZTA) No. 17-002 (Ordinance No. 468) from August 10, 2020, and consider the Hosted Ordinance (Ordinance No. 472 and Resolution No. 20-51) and revised version of ZTA No. 17-002, the Enforcement Ordinance (Ordinance No. 468, as revised); 2) After the City Attorney reads the title, introduce on first reading Ordinance No. 472 (Exhibit 1 – Hosted Ordinance) amending Title 17 (Zoning) of the Malibu Municipal Code (MMC) and adding Chapter 17.55 (Short-term Rental Ordinance) and amending portions of the Local Coastal Program (LCP) Local Implementation Plan (LIP) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act (CEQA); 3) After the City Attorney reads the title, introduce on first reading Ordinance No. 468 (Exhibit 2 – Enforcement Ordinance), as revised, amending MMC Title 17 to establish provisions to regulate short-term rental of property citywide and finding the action exempt from CEQA; 4) Direct staff to schedule second reading and adoption of Ordinance Nos. 472 and 468 as revised for the September 29, 2020 Adjourned Regular City Council Meeting; and 5) Adopt Resolution No. 20-51 (Exhibit 3) amending LCP Land Use Plan (LUP) Chapter 5 to address short-term rental use in residential zones and finding the action exempt from CEQA.

PURPOSE: On August 10, 2020, the Council continued to the September 14, 2020 City Council Regular meeting to hear concurrently: 1) Ordinance No. 468 amending Title 17 (Zoning) of the Malibu Municipal Code and adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act; 2) Local Coastal

Program Amendment (LCPA) No. 19-003 and Zoning Text Amendment (ZTA) No. 19-005 regulating the rental of residential units for 30 days or less (Short-term Rentals) including but not limited to requiring the presence of an onsite host during certain short-term rentals, and other restrictions, and clarifying permitted uses related to short-term rental (Citywide); and 3) a revised version of Ordinance No. 468 that removes the primary resident requirement and certain other requirements to focus on providing enforcement tools against nuisance properties while LCPA No. 19-003 is processed.

This item presents (1) a "hosted" short-term rental ordinance and related Local Coastal Program (LCP) amendment and (2) a separate ordinance that provides enforcement tools more immediately to regulate negative and nuisance impacts of short-term rentals; any aspects of this Enforcement Ordinance that conflict with the Hosted Ordinance would be superseded by the Hosted Ordinance once the related LCP Amendment is certified by the California Coastal Commission (CCC).

FISCAL IMPACT: In Fiscal Year 2018-2019 the City collected $2.42 million from Transient Occupancy Tax (TOT) of short-term residential rentals, and in Fiscal Year 2019-2020 the City anticipates it will collect $1.7 million (unaudited). The Adopted Budget for Fiscal Year 2020-2021 anticipates that the City will receive $1.3 million. The impact to this General Fund revenue source from the Hosted Ordinance, Ordinance No. 472, which is the Santa Monica-style ordinance, is expected to be significant, but cannot be determined with certainty at this time. Ordinance No. 468, the Enforcement Ordinance, which is proposed to become effective January 15, 2021, is anticipated to have a less significant impact on TOT revenue.

On June 24, 2019, the Council approved a Professional Services Agreement with Raftelis Financial Consultants (Raftelis) to conduct a financial analysis on the implications of a ban on short-term rentals. On October 28, 2019, the Council was presented with a financial analysis on the implications and potential impacts of a ban on short-term rentals. The analysis, as presented, incorporated the impacts to the City's budget from the Woolsey Fire and subsequent winter storms. Due to the more recent changes in the City's revenue and expenses from the COVID-19 pandemic and its ongoing and unknown impacts, an updated forecast has not yet been completed. As part of their analysis, Raftelis provided the City with a model, which City staff uses to forecast revenue and expenses. Once the Council proceeds with one or both of the proposed ordinances, and more accurate data can be obtained on the actual fiscal impact from the ordinance(s), staff will monitor and forecast any potential negative impacts to revenue and expenses from the ordinances.

It is anticipated that both ordinances will require additional staff resources for the processing of permits and enforcement; however, it is further anticipated that these costs will be offset by fees from permits and fines from enforcement.

Each proposed ordinance will provide for a new permit with an associated fee. Staff will return to Council with a revised Fee Schedule before either ordinance is scheduled to go into effect. All associated budget amendments to revenue and expenses will be presented to Council as part of the mid-year budget process in January 2021.

WORK PLAN: This item was included as item 4d in the Adopted Work Plan for Fiscal Year 2020-2021.

DISCUSSION: For several years, the City has conducted legislative, legal, and financial review of potential short-term rental regulations. Several options have been discussed. On December 3, 2019, the Council directed staff to prepare an ordinance that mirrors the City of Santa Monica's "hosted" short-term rental (STR) regulations in which an onsite "host" must be present on the property during short-term rentals. The Council initiated the necessary Local Coastal Program Amendment (LCPA) and ZTA at that time. On July 29, 2020, the Planning Commission considered LCPA No. 19-003 and ZTA No. 19-005 for the Hosted Ordinance and made recommendations for the Council's consideration (Exhibit 4 - Planning Commission Resolution No. 20-35), which is discussed in more detail later in this report.

On June 22, 2020, the Council discussed ongoing problems with enforcement against problem short-term rental properties. In order to put more tools in place while the Hosted Ordinance was in process, the Council asked to revisit the draft ordinance it had considered on December 3, 2019, known as ZTA No. 17-002, which included a permitting program and enforcement tools, along with primary residency requirements, seasonal rental restrictions and rules for multifamily rentals.

Staff returned to Council with ZTA No. 17-002 on August 10, 2020, which was called Ordinance No. 468. After deliberations on ZTA No. 17-002, the Council continued the public hearing to September 14, 2020, so that it could be heard simultaneously with the scheduled hearing on the Hosted Ordinance, and also a revised, pared down version of ZTA No. 17-002 that focused solely on permitting and enforcement, now referred to as the Enforcement Ordinance.

In this report, staff is presenting the Hosted Ordinance, Ordinance No. 472 (LCPA 19-003 and ZTA 19-005), and the Enforcement Ordinance, the revised Ordinance No. 468 which is focused on permitting and enforcement tools. While the version of ZTA No. 17-002 presented on August 10, 2020 is also being considered, it will not be discussed in this staff report as a detailed discussion was included in the staff report for the August 10, 2020 meeting, which is included as Exhibit 5.

Background

On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002. The City Council directed staff to investigate potential options and procedures for

banning short-term rentals (30 days or less) in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the LCPA process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

On November 9, 2018, the Woolsey Fire reached Malibu and ultimately destroyed 488 single-family homes in the City. The local emergency declaration persisted until April 22, 2019.

On June 24, 2019, the Council authorized an agreement with Raftelis for financial analysis services to examine the short- and long-term financial implications of a potential short-term rental ban. The Administration and Finance Subcommittee received the financial report on October 3, 2019, and made recommendations that were considered by the Council on October 28, 2019, together with the other information previously requested, including potential options for a ban, and approaches other coastal cities have taken to legislate short-term rental regulation and associated litigation. At the conclusion of deliberations, Council directed staff to return with a resolution to initiate an LCPA and ZTA for "home-sharing" regulations similar to the City of Santa Monica. The Council directed staff to bypass the Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) and take the LCPA/ZTA directly to the Planning Commission. Council also directed staff to return with an updated version of ZTA 17-002 from September 26, 2018, that could be implemented without an LCPA with the understanding that it would be superseded by the new Santa Monica-style LCPA/ZTA when approved.

On December 3, 2019, the Council considered ZTA No. 17-002 (presented at that time as Ordinance No. 458) to regulate short-term rentals of residential property and a resolution initiating a LCPA and ZTA for a "Santa Monica" style hosted ordinance. The Council did not move forward with ZTA No. 17-002 but did initiate the new LCPA and ZTA for the Santa Monica-style home-sharing regulations. While Santa Monica's ordinance requires the presence of an onsite host *within* the rented dwelling unit, the Council's direction was to require a "host" to live *onsite* at the property during the rental but not require the person to be *within* the dwelling unit. The Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included in the LCPA/ZTA. Pursuant to Council's direction, a hearing for the Planning Commission was scheduled for March 30, 2020.

However, in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings were cancelled until they resumed virtually in April 2020. Legislative matters expected to draw extensive public interest were temporarily postponed. On June 8, 2020, the Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission for a virtual public hearing.

On June 22, 2020, before the Planning Commission hearing on the Hosted ordinance, in response to resident concerns about short-term rentals and the need for regulation to more immediately address neighborhood impacts, the Council, by consensus, directed staff to return with an update of ZTA No. 17-002 to establish an ordinance that addressed enforcement tools but did not involve a change of the uses allowed in the City while the LCPA and ZTA were processed. The proposed ordinance would put in place a STR permitting system and new regulations to address nuisance issues and impacts on neighborhoods and also attach significant penalties to violations while the LCPA and ZTA for the Hosted Ordinance continue through the approval process.

On July 29, 2020, the Planning Commission held a public hearing to review the Draft Hosted STR Regulations in LCPA No. 19-003 and ZTA No. 19-005, including requiring an onsite host and multifamily regulations, and adopted Planning Commission Resolution No. 20-35 with recommendations to City Council.

On August 10, 2020, the City Council held a public hearing to consider ZTA No. 17-002 (Ordinance No. 468). Council continued the hearing and directed staff to return on September 14, 2020, with presentations that could be heard concurrently with ZTA No. 17-002 on: 1) a revised version of ZTA 17-002 (the Enforcement Ordinance) that is pared down to focus on providing enforcement tools to address negative and nuisance impacts of short-term rentals right away and 2) the Hosted Ordinance (LCPA No. 19-003/ZTA No. 19-005) and the Planning Commission's recommendations thereon.

Table 1 – Organization of Amendments

Hosted Ordinance				
	LCPA 19-003			
		LUP changes	Resolution No. 20-51 / Exhibit 3	Section 4
		LIP changes	Ordinance No. 472 / Exhibit 1	Section 2
	ZTA 19-005			
		Title 17 changes	Ordinance No. 472 / Exhibit 1	Section 4
	MMC Text changes			
		Chapter 15.44 changes	Ordinance No. 472 / Exhibit 1	Section 6
Enforcement Ordinance				
	ZTA 17-002			
		Title 17 changes	Ordinance No. 468 / Exhibit 2	Section 2
		Chapter 15.44 changes	Ordinance No. 468 / Exhibit 2	Section 3

Summary of Hosted Ordinance No. 472 (LCPA No. 19-003/ZTA No. 19-005)
The amendments address portions of the LCP and of Title 17 (Zoning Ordinance) of the MMC. A small change to MMC Chapter 15.44 pertaining to operating permits for onsite wastewater treatment systems is also included as it pertains to short-term rentals. The LCPA involves changes to both the LCP LUP (a policy document) and LIP, a regulatory

document. As shown in Table 1, the LIP changes and MMC changes are included together in Ordinance No. 472. The LUP changes are included in Resolution No. 20-51.

In general, the amendments propose to create an annual STR program to regulate short-term rentals in residential property, minimize impacts on neighborhood character and provide a mechanism to prohibit nuisance rentals. The amendments address nuisance issues that have developed under the recent, rapid, and substantial expansion of short-term rental activity in the City and protect residential neighborhood character and housing stock availability and variety. Some of the concepts will sound familiar as they have been presented in earlier drafts of the ordinance. Also, the permitting system included in the Hosted Ordinance LCPA/ZTA mirrors that of Enforcement Ordinance so that if it is adopted and ultimately superseded by the Hosted Ordinance LCPA/ZTA, a relatively seamless transition can occur.

Summary of Hosted ZTA

The proposed permit program has two distinct STR permit types: one for owners of single-family residences and condominium units to offer hosted short-term rentals, and one for owners of multifamily parcels to offer up to two units as short-term rentals as long as all other units are rented long-term.

- Hosted Short-Term Rental Permit (HSTR permit) - To be eligible for a hosted short-term rental permit, the property must be the owner's primary residence. In addition, the owner must live onsite, meaning maintain a physical presence on the property, including but not limited to, sleeping overnight, preparing and eating meals each day during the short-term rental of the property. The owner must also be available at all times to resolve any issues with the rented dwelling unit and must appear at the property within one hour of a phone call requesting such appearance by the City, and must be physically onsite from 8:00 p.m. until 6:00 a.m. The owner may authorize a designated operator to perform this function on his or her behalf. If a designated operator is selected, the operator is required to meet these requirements.

- Multifamily Short-term Rental Permit (MSTR permit) - Owners of multifamily residential parcels may obtain a multifamily short-term rental permit. This permit would allow the owner to rent up to two units on the parcel if all the other units on the property are rented on a long-term basis. Short-term rentals on multifamily properties do not require the owner or designated operator to live onsite during the rental.

Key requirements include:

- An individual may not possess more than one active short-term rental permit, regardless of type.
- A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented).
- Each permit may include up to two listings. This will allow a property that has two dwelling units (such as a main house and a second unit) to be able to rent either unit on a short-term basis. Either could be used as a hosted short-term rental, with the owner or designated operator living onsite either in the unrented unit or in a bedroom of the rented unit.
- No person may serve as a designated operator for more than one short-term rental concurrently.
- Permits must be renewed annually.

Short-term Rental General Requirements

To conduct short-term rentals, owners must comply with all the terms and conditions of the short-term rental program including, but not limited to, the following:

1. Maintain an active permit at all times short-term rentals are conducted
2. Take responsibility for and actively prevent any nuisance activities that may take place during short-term rentals
3. Be available, or designated operator be available, 24/7 via contact information provided to and kept current with City and any guest renting the property
4. Collect and remit TOT as set forth in MMC Chapter 3.24
5. Provide basic health and safety features for guests
6. Limit occupancy based on the number of bedrooms on record in City or County documents, as determined by the Planning Director, to two people more than twice the number of bedrooms, but no more than 14 unless a special event permit (SEP) is obtained under MMC Chapter 5.34 (example – for a 3 bedroom property – ((3 bedrooms x 2 people) + 2 people)) = 8 people max occupancy, including owner/designated operator)
7. Maintain liability insurance with minimum limits no less than $500,000
8. Provide guests with the City of Malibu's Short-Term Rental Code of Conduct
9. Provide access to the property and documents upon request by City during business hours or when property is rented
10. Comply with all applicable building, fire and other safety codes including noise limitations
11. Maintain a valid Onsite Wastewater Treatment System (OWTS) operating permit (a compliance agreement option is available for those in the process of upgrading)
12. Follow all rules for advertising short-term rentals:

- immediately remove any advertisement identified by the City as illegal;
- include permit number in all advertisements;
- clearly state in all advertisements related to a HSTR permit that the owner or designated operator will live onsite during the rental (not required for MSTR permits)
- clearly state occupancy limits

13. Keep permit application information on file with the City current at all times, especially 24/7 contact information for owner / designated operator

Grounds for Denial and Revocation of Permit

The amendments specify grounds for denial of a permit application or renewal request and for revocation of a permit. These include:

- Failure to pay TOT
- Outstanding code violations on the property
- Failure to comply with applicable codes like fire, building safety, etc.
- False statements in relation to the STR permit application
- Application information has not been updated as required
- OWTS requirements have not been met
- Property has received two or more citations for noise ordinance violations in 12 consecutive months
- For HSTR permit holders – three citations for other violations of the STR Ordinance in 12 consecutive months, for MSTR permit holders – two citations in 12 consecutive months

Effect of Permit Revocation or Denial

The amendments also prescribe significant impacts on an owner's ability to conduct short-term rentals if the owner's permit is denied or revoked. If an application is denied or a permit is revoked for making false statements on the application, violating Section 17.55.030(A)(9), or violating the City's noise ordinance more than twice within 12 months, a new application cannot be approved for that applicant and location for 12 months after the last violation or short-term rental. Essentially, that owner and property cannot conduct short-term rentals for a year.

If a property is found to be rented or advertised for short-term rental after permit denial or revocation, the property and applicant will be prohibited from short-term rentals for an additional six months on top of any time periods mentioned above.

An applicant may appeal a denial or revocation decision to the Planning Commission, but no short-term rentals may be conducted while the appeal is pending.

Enforcement

The amendments set forth special tools for enforcement, including setting a new fine for unpermitted short-term rentals at $1000 or twice the daily rental rate, whichever is higher, and setting the fine for all other violations at $500 or twice the daily rental rate. The amendments also clarify explicitly that offering or allowing short-term rental of any location not approved for use as a dwelling unit, such as any vehicle, trailer, tent, storage shed or garage, is prohibited.

Summary of Proposed LCPA

As noted earlier, the LCPA involves changes to the LCP LUP and LIP. The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP contains provisions and standards to carry out the policies of the LUP. Any development proposed in the City must first obtain a coastal development permit unless the LCP provides for an exemption.

The LCPA memorializes that short-term rental use is allowed in single-family residential zones, as it currently is, but only if it is hosted and conducted pursuant to a valid permit. It also memorializes that up to two units on multifamily parcels may be rented un-hosted on a short-term basis, but again only pursuant to a valid permit. A corollary change is included in ZTA 19-005 for MMC Title 17. The permitting requirements will allow the City to better control nuisance issues and avoid the proliferation of short-term rental businesses in which corporations and other entities buy up residences to use solely for vacation rentals, while ensuring a variety of visitor-serving accommodations remain available. In the LUP, the amendment addresses the purpose policies for each residential zoning district by specifying that hosted short-term rentals are allowed in single-family zones, and that only two dwelling units per multifamily parcel may be used for short-term rental in multifamily zones.

In the LIP, definitions have been added to LIP Section 2.1 to address short-term rental terms used in the LUP and LIP amendments. Table B – Permitted Uses has been updated to add hosted and multifamily short-term rental uses, subject to a valid short-term rental permit. And finally, language has been added to LIP Chapter 13 (Coastal Development Permits) to clarify that short-term rental use is not development requiring a coastal development permit so long as it is conducted pursuant to a valid short term-rental permit issued by the City and subject to certain criteria to ensure protection of coastal resources. This language has been added to a new Section 13.31 in response to comments from CCC staff (Exhibit 6) during the Planning Commission's review of the amendments. The other minor comments provided in the CCC staff comment letter have been incorporated into the amendments. City staff has had several discussions with CCC staff about the

City's approach to STR regulation but, to date, this comment letter is the only response that addresses specific changes to the proposed language.[1]

Comparison Between Santa Monica and Malibu Hosted Ordinance

One of the key features the Council wanted to borrow from the Santa Monica ordinance is the requirement of an onsite "host" during the rental, which is designed to monitor activity, prevent nuisance issues from arising, and facilitate prompt correction of any problems that develop. Second, the Council wanted to implement Santa Monica's system for preventing online platforms from completing transactions for illegal rentals, which has been upheld by the courts.

Staff has conferred with both City of Santa Monica staff and Michael Lustig[2] about the best way to integrate these, and other, aspects of the Santa Monica ordinance while also addressing conditions that are unique to Malibu. The City Santa Monica is a charter city with a robust rent control system, different municipal code that uses different terms, larger population, significantly larger and more dense multifamily zones, greater population of renters, and no LCP,[3] thus significant differences exist between the cities.

To achieve the Council's goals, the proposed ZTA and LCPA incorporate key features from Santa Monica's ordinance, including platform liability requirements. Some aspects of the Santa Monica's ordinance have been adapted to fit appropriately into the City of Malibu context. Adaptations of the Santa Monica ordinance for Malibu include:

- Hosted short-term rental vs. home-share. Santa Monica uses the term home-share[4] to refer to short-term rentals in which the host lives in the rented dwelling unit for the duration of the rental. The Council explicitly stated it wanted an onsite presence during the rental but did not want to require the host to be within the rented unit itself. The proposed amendments use the term "hosted" short-term rental to indicate that while the owner or designated operator must live onsite, that person need only live on the property, not in the same dwelling unit, during the rental.

- Owner and designated operator vs. primary resident. Santa Monica's ordinance requires that the primary resident (which can be the owner OR a renter) of the property must live onsite for the duration of the short-term rental. The draft Hosted Ordinance tracks the Council's goal of onsite monitoring but provides some limited

[1] CCC staff sent a letter dated 9/20/18 that was included as Attachment 2 to the August 10, 2020 Council agenda report that is included here as Exhibit 5.

[2] City Council direction on December 3, 2019, included that staff consult with Michael Lustig in preparation of the Hosted Ordinance.

[3] At this time, the City of Santa Monica has a Land Use Plan, which is a policy document, but has not achieved certification of a LIP by the CCC. As such, it does not have a certified LCP, and there would be no requirement to amend because a LIP does not exist.

[4] The City of Los Angeles uses the term "home-sharing" to refer to all short-term rental of residential property regardless of whether the host is present or not.

flexibility by allowing the property owner to assign a "designated operator" to live onsite instead of the owner, so long as the designated operator is required to: (1) resolve any nuisance or compliance issues, (2) produce records, and (3) allow Code Enforcement Officers to enter the property. Under the terms of the City's proposed Hosted Ordinance, the designated operator would also have to be located onsite between the hours of 8:00 p.m. and 6:00 a.m.

- Proof of Primary Residency. Santa Monica requires primary residents to submit two forms of documentation to provide proof of primary residency. As part of the City of Malibu's Woolsey Fire Rebuild Fee Waiver program, the City established that applicants can demonstrate primary residency with an active voter registration, a valid driver's license or other government issued identification card. The proposed ordinance is consistent with the primary residence documentation requirements established as part of the City's Fee Waiver Program for fire rebuilds.

- Multifamily Rentals. Council directed that, in contrast to Santa Monica's ordinance, up to two multifamily dwelling units on a property may be rented un-hosted so long as the other units on the property are rented on a long-term basis. This system prevents the conversion of multifamily units into unregistered hotels, protects some of the lowest cost housing in the City, and encourages units to be rented long-term at lower rent as short-term rental is only allowed if all other units are at full occupancy.

- Eligible Permit Applicants. The City's proposed ordinance only allows owners of residential or multifamily properties to apply for short-term rental permits. The City of Santa Monica also allows renters who can provide proof that their primary residence was the unit in question for the prior 12 months to apply for a short-term rental permit

- Parking. Santa Monica allows guests to park one vehicle per bedroom rented on the street or, if the short-term rental is located in a preferential parking zone, only two vehicles can use visitor parking permits. Per Council's direction on August 10, 2020, STR parking restrictions have been removed from the ordinance.

- Neighborhood Notification. Once a short-term rental permit is issued, the City will provide (at the permit holder's expense) all neighbors within 500 feet the contact information for the owner or designated operator of the short-term rental so that they can directly contact the onsite host with any concerns that may arise. This is not included in the Santa Monica ordinance.

Planning Commission Resolution No. 20-35

On July 29, 2020, the Planning Commission held a public hearing to review the Draft Hosted Regulations, LCPA No. 19-003 and ZTA No. 19-005, and adopted Planning

Commission Resolution No. 20-35 (Exhibit 4) to memorialize its recommendations. The Planning Commission recommended that the City Council adopt ZTA 19-005 without adopting LCPA 19-003. The Planning Commission also recommended several edits to ZTA 19-005, which have been incorporated into the proposed Hosted Ordinance currently under Council consideration.

A summary of the Planning Commission's comments on ZTA 19-005 is provided below:

Guest Houses. The Planning Commission recommended that guest houses be ineligible for short-term rental use. Based on the Council suggesting such use was to be allowed, staff has included the amendments needed to allow such use. If Council wishes to prohibit guest houses from being rented on a short-term basis this provision can be removed.

City Council Policy #43. This Council policy establishes a code enforcement policy for the City that states "anonymous complaints relating to zoning violations on residential properties will be not investigated." The Planning Commission suggested that this policy be revised to allow anonymous short-term rental complaints to be investigated. Policy #43 discourages false complaints, facilitates follow-up and investigations, and allows Code Enforcement personnel to determine if complaints are generated by one person or many. As the Council did not direct any change to this policy, it has not been included. Staff recommends that the policy remain consistent for all types of violations. If Council desires to revisit Policy #43 staff can bring back more detailed analysis and proposed language.

Multifamily Short-Term Rental Permits. The Planning Commission recommended that the short-term rental permit provisions for multifamily properties be amended to further restrict how many units can be rented. More specifically, the Commission's proposed change would prohibit more than 40% of the multifamily units from being rented. The multifamily limits previously recommended by the Council already limit multifamily properties to having a maximum of two units available for short-term rental (if all other units are rented on a long-term basis). The Commission's proposed change would thus primarily affect duplexes, triplexes, and quadplexes. The change would completely bar short-term rentals in duplexes, and limit triplexes and quadplexes to one unit instead of two. Based on the Council's direction to allow up to two units on a multifamily parcel to be rented on a short-term basis, this change was not incorporated into the proposed amendments. If Council wishes to modify the provisions for multifamily short-term rental permits these sections can be amended.

Enforcement. The Planning Commission was concerned that the ordinance did not include sufficient enforcement tools to properly address nuisance properties and recommended several changes to this end that have been incorporated in the proposed amendments. These include changes to the following:

- Definition of Designated Operator. The definition has been changed to say that the designated operator is “required” to take certain actions pursuant to the STR permit rather than authorized as previously stated.
- Terms of Permit Revocation or Denial. The Planning Commission recommended that the terms of revocation or denial for violations of the STR ordinance be strengthened. The language has been changed from “more than three” to “three or more” for the Hosted STR Permits and from “more than two” to “two or more” for Multifamily Permits. However, the distinction between “major” violations, such as noise, for which two strikes is sufficient, and more minor infractions, for which three strikes is sufficient, is maintained.
- Fines. The Planning Commission recommended that the fines for violation be increased. The Commission added that for all violations of the ordinance, the owner shall be subject to a fine of $500 per day or violation, or the short-term rental’s advertised daily rental rate per day or violation, whichever is higher, rather than the City’s standard escalating citation amount, and agreed with the proposed fine of $1000 per day or twice the rental rate for any violation of Section 17.55.020(A), which is the short-term rental requirements. This has been incorporated into the proposed Hosted Ordinance and Enforcement Ordinance.

Summary of the Enforcement Ordinance (Revised ZTA 17-002)
The Enforcement Ordinance is a revised version of Ordinance No. 468 that was presented to the City Council on August 10, 2020. As Council directed, it has been revised to remove the primary resident requirement and certain other requirements to focus on providing enforcement tools to address negative and nuisance impacts of short-term rentals. Instead of three separate permit types, the ordinance is simplified to one type of STR permit. The regulatory and enforcement structure mirrors the Hosted Ordinance so that once the Hosted Ordinance LCPA is certified by the CCC, the main adjustment will primarily be imposing the onsite host requirement and multifamily limitations. The other regulatory and administrative requirements will be largely the same.

The proposed ordinance, as revised, does not change the uses currently allowed in the City, and instead, imposes regulations to address nuisance issues and impacts on neighborhoods. It is designed to provide more immediate enforcement tools while the Hosted Ordinance (LCPA No. 19-003/ZTA No. 19-005) is processed, avoid conflict between the ordinances, and facilitate the eventual implementation of the Hosted Ordinance.

An LCPA is required when the uses allowed within the City are changed. However, no such amendment is required to adopt enforcement mechanisms designed to prevent nuisance impacts without altering the land uses themselves. The Enforcement Ordinance does not prohibit un-hosted rentals in the City or change the land uses allowed. Instead it attaches penalties and regulations to deal with negative impacts of short-term rentals that have developed, and become more prominent, with the recent explosion in online short-

term rental activity. It has been carefully designed with this focus in order to allow it to be quickly implemented and provide relief to residents located near impactful short-term rental properties and avoid the need for CCC certification.

The following is a summary of the key points of Enforcement Ordinance and the STR permit system:

- Requires a 24/7 contact that can address STR issues
- Notification of permit issuance and STR contact information is provided to all neighbors within a 500-foot radius.[5]
- Establishes maximum occupancy rates based on the number of bedrooms
- Requires a valid OWTS Operating Permit for the property or a compliance agreement with the City[6] within two years of the issuance of an STR permit
- Establishes that permits may be denied or revoked if:
    - The owner has not paid all TOT due
    - The property has outstanding code violations
    - The property does not comply with all applicable safety codes, laws or ordinances
    - The owner has falsified the application
    - The owner has failed to update the application (such as with updated 24/7 contact information)
    - The property is not in condition to be rented in accordance with the ordinance requirements
    - The property has received two citations for violation of the City's noise ordinance within a 12-month consecutive period
    - The property has received three citations for other violations within a 12-month period
- Maintains the same fine structure as the Hosted Ordinance

Under this system, if a permit is denied or revoked for falsification or the accrual of citations, the short-term rental of property must cease immediately and shall not be permitted again for 12 months. Any short-term rental of property during this period would result in additional penalties, including an extension of the period rentals are prohibited for an additional six-month period for each violation.

[5] The applicant would be responsible for the staff cost of generating the address list and postage for this notification. Staff previously recommended removing this requirement to eliminate which could be substituted by an E-notification list of STR permit approvals or staff providing the contact information upon request.

[6] If a property does not have an operating agreement, the owner may enter into a City-approved compliance agreement pursuant to MMC section 17.55.020(C) to satisfy the requirement.

Next Steps

Enforcement Ordinance

Ordinance No. 468 (revised ZTA 17-002) is proposed to become effective on January 15, 2021. This is intended to allow sufficient time for the City and people currently renting their property on a short-term basis to prepare for the new STR permit protocols. City staff will initiate a robust public outreach and education campaign to notify residents and short-term rental platforms of the new permit requirements and regulations. Staff will also work to prepare the permit applications and establish a permit review process immediately so that property owners can submit their applications well in advance of the January 15, 2021, deadline to comply with the new ordinance.

Hosted Ordinance (LCPA 19-003 and ZTA 19-005)

If Ordinance No. 472 and Resolution No. 20-51 are approved by the Council, the LCPA will then be submitted to CCC for certification.

Upon final certification of the amendment, and likely starting before, the City will conduct an extensive public outreach program to notify property owners of the upcoming policy changes, followed by coordination with Host Compliance or another vendor, Code Enforcement and the Sheriff's Department to implement and enforce the new regulations.

Current Market Landscape

The City currently contracts with Host Compliance to monitor STR listings online. According to Host Compliance, there were 452 properties in or near Malibu advertised for short-term rental as of August 2, 2020.

Administration and Code Enforcement Personnel

Prior to the final LCPA adoption, the City will ensure that it has the appropriate consultant support and personnel necessary to administer and enforce the new requirements including the onsite host and multifamily provisions. If a budget amendment is needed to support these additional resources, it will be presented to Council as part of the mid-year budget process in January 2021. The City currently has a contract with Host Compliance to monitor short-term rentals in Malibu across over 50 rental booking internet platforms.

Once the ordinance is in effect, staff will work with Host Compliance or another contract provider if needed, to monitor online compliance with the adopted regulations, process permit applications through an online portal, operate a short-term rental hotline for residents to report violations and administer TOT collection. Planning and Management and Administrative staff will implement and administer the STR permitting program. Code Enforcement staff in cooperation with the Sheriff will investigate complaints, issue citations, and work to resolve violations, including any related to large events. Additional

enforcement including short-term rental sting operations may be necessary to ensure compliance with all regulations.

ENVIRONMENTAL REVIEW: The Planning Department has analyzed the proposed project in accordance with the authority and criteria contained in the CEQA, the State CEQA Guidelines, and the environmental regulations of the City. The Planning Department determined 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters. Further, the Ordinance is exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines which states that permitting and licensing of existing private structures involving negligible or no expansion of existing or former use in that the proposed short-term rental permitting program will establish rules and regulations that do not expand existing residential uses. Additionally, the Ordinance is exempt pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) in that the regulatory program established will facilitate enforcement actions, such as permit revocation, for nuisance short-term rental properties. Finally, in accordance with the CEQA, Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This Ordinance is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect.

CORRESPONDENCE: Correspondence from the public received subsequent to publication of the July 29, 2020 Planning Commission Agenda Report and the August 10, 2020 City Council Agenda Report is available on City's short-term rental website, malibucity.org/str. Correspondence received after the August 10, 2020 Council meeting is included with this report as Exhibit 7.

PUBLIC NOTICE: For ZTA No. 17-002, on July 16, 2020, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties; and all owners/operators currently registered with the City's TOT Program (Exhibit 8). On August 20, 2020, for the Hosted Ordinance (LCPA 19-003 and ZTA 19-005) and the Enforcement Ordinance (the revised version of ZTA 17-002), a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties; and all owners/operators currently registered with the City's TOT Program. In addition, posts were made on the City's social media platforms for all items (Exhibit 8).

EXHIBITS:

1. Ordinance No. 472 (Hosted Ordinance LCPA 19-003 and ZTA 19-003)
2. Ordinance No. 468 (Enforcement Ordinance, revised ZTA 17-002)
3. Resolution No. 20-51 (LCPA No. 19-003)
4. Planning Commission Resolution No. 20-35
5. Council Agenda Report for August 10, 2020, including ZTA 17-002
6. Letter from CCC staff dated July 29, 2020
7. Correspondence received after August 10, 2020 Council meeting
8. Notices of Public Hearing

ORDINANCE NO. 472

AN ORDINANCE OF THE CITY OF MALIBU AMENDING THE LOCAL COASTAL PROGRAM (LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003) AND TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE (ZONING TEXT AMENDMENT NO. 19-005) REGULATING THE RENTAL OF RESIDENTIAL UNITS FOR 30 DAYS OR LESS (SHORT-TERM RENTALS) INCLUDING BUT NOT LIMITED TO REQUIRING THE PRESENCE OF AN ONSITE HOST DURING SHORT-TERM RENTAL, AND OTHER RESTRICTIONS, AND CLARIFYING PERMITTED USES RELATED TO SHORT-TERM RENTAL CITYWIDE, AMENDING CHAPTER 15.44 PERTAINING TO OPERATING PERMITS FOR ONSITE WASTEWATER TREATMENT SYSTEMS AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby ordain 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 platforms that consolidate and facilitate the short-term rental of property, the City has seen increased violations of its prohibition against illegal hotel, motel, and bed and breakfast inn 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 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the

EXHIBIT 1

draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

J. The September 11, 2018 City Council Regular Meeting was cancelled.

K. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

L. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

M. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

N. On June 24, 2019, the City Council authorized the City Manager to execute the Professional Services Agreement with Raftelis Financial Consultants, Inc. for financial analysis services to examine the short- and long-term financial implications of a potential ban on short-term rentals.

O. On October 3, 2019, the City Council Administration and Finance Subcommittee, received a report the short and long-term financial implications of a potential ban on STRs and recommended that requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

P. On October 28, 2019, the City Council received financial analysis on the

implications and potential impacts of a ban on short-term rentals. Council also discussed the potential options and procedures for banning short-term rentals, whether an amendment to the Local Coastal Program (LCP) is necessary for a short-term rental ban, and approaches other coastal cities have taken to legislate short-term rentals and associated litigation in those cities. Council directed staff to initiate a ZTA and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals to include provisions similar to Santa Monica's home-sharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance (ZTA No. 17-002) to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

Q. On December 3, 2019, the City Council held a duly noticed public hearing on ZTA No. 17-002. The City Council did not move forward with ZTA No. 17-002 at that time but did adopt Resolution No. 19-53 initiating a new LCPA No. 19-003 and ZTA No. 19-005 to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica's ordinance requires the presence of an onsite host within the rented dwelling unit, known as a "home-share" or a "hosted" rental. The City Council's direction was to require a "host" to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The City Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included.

R. Beginning in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings began to be held virtually in April. Legislative matter drawing extensive public interest were temporarily postponed. On June 8, 2020, the Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission for a virtual public hearing.

S. On June 22, 2020, in response to immediate resident concerns about neighborhood impacts from short-term rentals, the City Council directed staff to bring back the ordinance presented to the City Council on December 3, 2019 (ZTA No. 17-002) establishing provisions to regulate short-term rental property.

T. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record pertaining to hosted short-term rental regulations. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City Council adopt ZTA No. 19-005, with modifications, including that short-term rental of guest houses not be allowed, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

U. On August 10, 2020, the City Council held a duly noticed public hearing on ZTA No. 17-002 (Ordinance No. 468), reviewed and considered the staff report, written reports, public testimony, and other information in the record. City Council continued Ordinance No. 468 to the September 14, 2020 Regular meeting in order to consider it concurrently with the hosted short-term rental amendments (LCPA No. 19-003 and ZTA No. 19-005) and with a revised version of Ordinance No. 468. Council directed staff to modify Ordinance No. 468 in order to remove the

primary resident requirement and certain other requirements to focus on providing enforcement tools against nuisance properties while LCPA No. 19-003 is being processed.

V. On September 14, 2020, the City Council held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the staff report, written reports, public testimony, and other information in the entire record of the City's consideration of short-term rental regulations.

SECTION 2. Local Coastal Program Amendments.

The LCP Local Implementation Plan (LIP) is amended as follows:

A. LIP Section 2.1 is hereby amended by adding the following definitions, inserted in alphabetical order:

DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and
C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

B. LIP Section 3.3(Q)(2)(a) Planned Development (PD) Zone is amended to add subsection (v) to section (a):

a. Lot Nos. 1—5

i. One single-family residence per lot.
ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
iii. Domestic animals, kept as pets.
iv. Landscaping.
v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

C. LIP Section 13.31 is added to LIP Chapter 13 (Coastal Development Permits) to read as follows:

13.31 Short-term Rental of Residential Property

A. No coastal development permit is required nor is the City required to maintain a record of coastal development permit exemption pursuant to LIP Section 13.4.10 for short-term rental of residential property as defined in Section 2.1 of this LIP provided that such use meets all of the following criteria:

1. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.

2. The short-term rental use is conducted in a dwelling unit that was lawfully established as described in LIP Section 13.3(F).
3. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

D. LIP Table B – Permitted Uses (Key to Table) is amended to read as follows:

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	**Permitted use**
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**
CUP	**Requires the approval of a Conditional Use Permit**
A	**Permitted only as an accessory use to an otherwise permitted use**
LFDC	**Requires the approval of a Large Family Day Care permit**
WTF	**Requires the approval of a Wireless Telecommunications Facility**
STR	**Use requires valid short-term rental permit approved by the City**
·	**Not permitted (Prohibited)**

E. LIP Table B – Permitted Uses is amended by inserting the following new use category to the end of the Residential section of the table after the "Home Occupation" category and adding two new footnotes 21 and 22:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Short-term rental	STR[21]	STR[21]	STR[22]	STR[22]	STR[21]	·	·	·	·	·	·	·	·	·	·	·

21. Hosted short-term rental only in RR, SF and MHR zones
22. Maximum of two dwelling units per parcel for MF and MFBF zones

SECTION 3. LCP Amendment Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed LCPA No. 19-003 meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act as follows:

A. The amendment maintains standards to require that uses and development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will assure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

B. The amendment will be consistent with the following policies:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

No conversion or removal of lower cost opportunities for visitor-serving accommodations results from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which can be more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to be used for short-term rentals, which is currently prohibited.

2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

SECTION 4. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is amended as follows:

A. MMC Section 17.02.060 (Definitions) is hereby amended to add the following definitions, inserted in alphabetical order:

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Designated operator" means any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Guest House" means detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. Guest houses may be used for short-term rentals pursuant to a valid short-term rental permit issued by the City.

"Hosted short-term rental" means a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with Section 17.55.040.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

"Lives onsite" means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit. This definition is applicable to Chapter 17.55 only.

"Owner" means any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner. This definition is applicable to Chapter 17.55 only.

"Primary Residence" means the usual place of return for housing of an owner as documented to the satisfaction of the City Manager by an active voter registration, a valid driver's license or other government issued identification card with the address of the property. A person can only have one primary residence. This definition is applicable to Chapter 17.55 only.

"Short-term rental" of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

B. MMC Section 17.08.020 (Permitted Uses, Rural Residential) is amended to add subsection L:

L. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

C. MMC Section 17.10.020 (Permitted Uses, Single Family) is amended to add subsection I:

I. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

D. MMC Section 17.12.020 (Permitted Uses, Multiple Family) is amended to add subsection J:

J. Short-term rental use of no more than two units per parcel pursuant to a valid short-term rental permit issued by the City.

E. MMC Section 17.14.020 (Permitted Uses, Multifamily Beachfront) is amended to add subsection I:

I. Short-term rental use of no more than two units per parcel pursuant to a valid short-term rental permit issued by the City.

F. MMC Section 17.16.020 (Permitted Uses, Mobile Home) is amended to add subsection C:

C. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

G. MMC Chapter 17.55 (Short-term Rental of Property) is hereby added to read as follows:

Section 17.55.010 Short-Term Rental of Property

A. Hosted short-term rental of single-family residential property, and the short-term rental of up to two dwelling units on a multifamily housing parcel, is allowed as specified in Section 17.55.040 if conducted in compliance with this Chapter 17.55 and the owner complies with each of the following requirements:
    1. Obtains and maintains at all times a Short-Term Rental Permit issued pursuant to this Chapter.
    2. Operates the short-term rental activity in compliance with all permit conditions for short-term rental as set forth in Section 17.55.020 and any regulations promulgated pursuant to this Chapter.
    3. Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 3.24 of this Code.
    4. Takes responsibility for and actively prevents any nuisance activities that may take place as a result of short-term rental activities.
    5. Is available, or a designated operator is available, 24 hours a day, 7 days a week, at a phone number provided to both the City and any guest staying at the property to

immediately answer a call from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property. No person may serve as a designated operator for more than one hosted short-term rental concurrently.

6. Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
7. Limits the occupancy of the short-term rental (including the host, guests, and any other natural persons) to two people more than twice the number of bedrooms listed on City or County records as determined by the Planning Director up to a maximum of 14 people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
8. Maintains liability insurance to cover the short-term rental of property with minimum limits of not less than $500,000 or conducts each short-term rental transaction through a hosting platform that provides equal or greater coverage.
9. Complies with Section 17.55.080 governing advertisements of short-term rentals.
10. Provides all guests with the Short-term Rental Code of Conduct, which shall be developed by the City Manager, and posts the same on the inside of the main entrance door to the dwelling unit rented, or on the wall adjacent thereto.
11. Provides 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 her/his designee for purposes of inspection or audit.
12. Complies with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
13. Maintains a valid Onsite Wastewater Treatment System (OWTS) operating permit pursuant to Chapter 15.44 or has entered a compliance agreement with the City excusing such compliance and is in full compliance with the compliance agreement and not in default or breach.

Section 17.55.020 Short-Term Rental Permit Required

A. No person shall offer, facilitate an offer, or allow the short-term rental of property in any location not specifically identified and approved on a valid short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.

B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit. Each permit may include up to two listings, one per dwelling unit.

C. Application Required. To obtain a short-term rental permit an owner shall submit an application on a form to be provided by the City and signed by the owner under penalty of perjury.

D. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:

1. Address of the proposed short-term rental
2. Type of dwelling unit
3. Contact information for the owner of the property
4. Contact information for the designated operator, if a designated operator will live onsite for the hosted short-term rental
5. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.010(A)(14) paired with an attestation that the owner is in full compliance with the compliance agreement and not in default or breach
6. Attestation and agreement to comply with the requirements of this Chapter
7. Proof that the owner is in compliance with Chapter 3.24 of this code
8. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property
9. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that owner has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the owner maintains a short-term rental permit for the property.
10. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy
11. Attestation of compliance with the required insurance coverage
12. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis
13. The type of short-term rental permit sought: hosted or multifamily
14. If seeking a hosted short-term rental permit, proof of primary residency and attestation that the location is the owner's primary residence, meaning that the owner lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the owner's primary residence for the duration of the permit shall suffice
15. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire parcel, and an attestation that all dwelling units (except for two) are rented on a long term-basis per Section 17.55.040(B). The permit holder shall maintain copies of the leases for

all tenants documenting compliance at all times with Section 17.55.040(B) for a period of three years following the expiration of the short-term rental permit.

E. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.

F. Notice of Approval. Upon approval, the Planning Director shall provide, at the owner's expense, the contact information for the owner or designated operator identified in 17.55.010(A)(5) to all dwelling units within 500 feet of the short-term rental unit's parcel boundary.

G. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

H. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes, or immediately for any change in the owner or designated operator's contact information. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection (D) of this Section shall constitute a material change. A permittee may not cure a violation of this Chapter by seeking to amend a short-term rental permit after a violation occurs; short-term rental of a property may only be conducted as specifically authorized by an active short-term rental permit.

I. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.

J. No Transfer or Assignment. A short-term rental permit may not be assigned or transferred to another person.

K. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.

L. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

M. Possession of a STR permit does not excuse any other permitting requirements of this code including but not limited to TOT and special event permit requirements.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:

1. The owner has not paid all TOT due or is not in compliance with Chapter 3.24 of this code.

2. The property has outstanding code enforcement violations.
3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
5. The owner has failed to amend an application as required by Section 17.55.020(H).
6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter.
7. The property has received two or more citations for violation of the City's noise ordinance within a period of 12 consecutive months.
8. Failure to comply with Section 17.55.010(A)(13)
9. A holder of a Hosted Short-term Rental Permit receives three or more citations for violation of any combination of the following requirements within a period of 12 consecutive months, or a holder of a Multifamily Short-term Rental Permit receives two or more citations for violation of any combination of the following requirements within a period of 12 consecutive months:
    i. The requirements of Sections 17.55.010(A)(4), (7), (10), (11), 17.55.040(A), and Section 17.55.080.

17.55.040 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Hosted Short-term Rental Permit. A primary resident owner may obtain this type of permit which allows hosted short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. The owner, or designated operator, must live onsite during any period of rental, and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner or designated operator must be located onsite, and present immediately upon request, during the hours of 8 p.m. to 6 a.m. during any period that the unit is rented. Multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that a primary resident owner of a condominium unit may obtain this type of permit for the unit where he or she has established his or her primary residence.

B. Multifamily Short-term Rental Permit. Owners of entire parcels that have multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two units on the parcel so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

17.55.050 Renewal of Short-term Rental Permit

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.

B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.

C. No permit shall be renewed unless all city fees and taxes owed by the owner are paid in full, including the renewal fee.

17.55.060 Effect of Denial or Revocation of Short-term Rental Permit

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that owner and location for a 12 month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the owner knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(9), or (3) two or more citations for violation of the City's noise ordinance in a period of 12 consecutive months, a new application shall not be approved for a period of at least 12 months from the date of the last violation or short-term rental of the property, whichever is later.

B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of 12 months from the date of revocation.

C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other penalty) result in the property and owner being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.

D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.070 Appeals

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.

B. The completed appeal form must be delivered to the City Clerk within 30 calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.

C. Failure to deliver the completed appeal form as required by section (B) above will result in the denial or revocation being deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.

E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 Advertisement and Facilitation of Short-term Rentals

A. The owner shall include and prominently post the following information in any advertisement for short-term rental:

    1. The short-term rental permit number issued by the City;

    2. That the owner lives onsite and the owner or designated operator will live onsite throughout the visitor's stay unless the advertisement is for a permitted multifamily short-term rental;

    3. The permitted occupancy of the short-term rental as specified in the short-term rental permit application; and

    4. Any other information required by regulations promulgated pursuant to this Chapter.

B. No advertisements regarding the availability of a dwelling unit for short-term rental shall be posted in or on any exterior area of the dwelling unit, any exterior area of any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.

C. The address of the property shall be prominently displayed.

D. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental.

E. Any offer or advertisement for the short-term rental of property in the City that does not contain a valid short-term rental permit number, or which the City identifies as illegal to the person or entity advertising or offering the rental, shall be immediately removed from any location it is posted, whether online or otherwise.

17.55.090 Hosting Platform Responsibilities

A. Hosting platforms shall be responsible for collecting all applicable TOT and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the TOT the Hosting platform failed to collect and/or remit to the City.

B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.

C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.

D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.

E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C), and (D) above, shall be presumed to be in compliance with this Chapter and shall not be found in violation of Section 17.55.080.

F. The provisions of this Section 17.55.090 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.100 Regulations

The City Manager or designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.110 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 Section 17.55.020(A) by an owner shall be subject to a fine of $1000 per day or violation, or twice the short-term rental's advertised daily rental rate per day or violation, whichever is higher, and for all other violations an owner shall be subject to a

fine of $500 per day or violation, or the short-term rental's advertised daily rental rate per day or violation, whichever is higher.

B. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code or local coastal program committed by guests at the property.

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.

H. MMC Title 17 – Appendix 1 (Permitted Uses Table) – Key to Table is hereby amended to read as follows:

KEY TO TABLE (In addition to a coastal development permit where applicable, MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	Permitted use
MCUP	Requires the approval of a minor Conditional Use Permit by the Director
CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility
STR	Use requires valid short-term rental permit approved by the City
•	Not permitted (Prohibited)

I. MMC Title 17 – Appendix 1 – (Permitted Uses Table) is amended by inserting the following new use category after the "Home Occupations" use category in the table and two new footnotes 32 and 33:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Short-term rental	STR[32]	STR[32]	STR[33]	STR[33]	STR[32]	·	·	·	·	·	·	·	·	·	·	·

32. Hosted short-term rental only in RR, SF and MHR zones
33. Maximum of two dwelling units per parcel for MF and MFBF zones

SECTION 6. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be made prior to or concurrent with the application for a short-term rental permit. An

operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 7. Zoning Text Amendment Findings.

The City Council hereby finds that ZTA No. 19-005 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], protect rural residential character [General Plan LU Policy 1.1.4], protect and preserve the unique character of the City's distinct neighborhoods, and conserve affordable housing in the Coastal Zone [General Plan Housing Policy 1.4].

ZTA No. 19-005 will support these policies by introducing regulations to reduce the impact of short-term rentals on neighbors and the community.

SECTION 8. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters. Further, the Ordinance is exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines which states that permitting and licensing of existing private structures involving negligible or no expansion of existing or former use in that the proposed short-term rental permitting program will establish rules and regulations that do not expand existing residential uses. Additionally, the Ordinance is exempt pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) in that the regulatory program established will facilitate enforcement actions, such as permit revocation, for nuisance short-term rental properties. Finally, in accordance with the CEQA, Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This Ordinance is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect.

SECTION 9. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 10. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit the LCP amendments contained in Section 2 of this Ordinance to the California Coastal Commission per Title 14, California Code of Regulations Section 13554.5(a).

SECTION 11. Effectiveness.

The LCP amendment and corollary ZTA approved in this Ordinance shall become effective only upon certification by the California Coastal Commission of this amendment to the LCP.

SECTION 12. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2020.

_____
MIKKE PIERSON, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

_____
CHRISTI HOGIN, City Attorney

ORDINANCE NO. 468

AN ORDINANCE OF THE CITY OF MALIBU AMENDING TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE AND ADDING CHAPTER 17.55 (SHORT-TERM RENTAL ORDINANCE) TO ESTABLISH PROVISIONS TO REGULATE SHORT-TERM RENTAL OF PROPERTY CITYWIDE, UPDATING CHAPTER 15.44 PERTAINING TO ONSITE WASTEWATER TREATMENT SYSTEMS AND SHORT-TERM RENTALS AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby ordain 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. This ordinance neither allows new uses nor prohibits use types as currently allowed under the City's municipal code and local coastal program. It instead imposes regulations to limit negative impact of these uses and provides enforcement tools.

B. With the recent proliferation of short-term rental use due to the growth of internet platforms that consolidate and facilitate the short-term rental of property, the City has seen increased violations of its prohibition against illegal hotel, motel, and bed and breakfast inn use and an increase in short-term rental activity in the City and related impacts.

C. Code enforcement efforts to enforce the Malibu Municipal Code (MMC) have been resisted and challenged by operators. Additional regulation of short-term rental activity to limit the impact of short-term rentals on neighbors and the community, will benefit the City.

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

E. On May 23, 2017, the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City Council reviewed a draft ordinance (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

F. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

G. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

EXHIBIT 2

H. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

I. The September 11, 2018 City Council Regular Meeting was cancelled.

J. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

K. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

L. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

M. On June 24, 2019, the City Council authorized the City Manager to execute the Professional Services Agreement with Raftelis Financial Consultants, Inc. for financial analysis services to examine the short- and long-term financial implications of a potential ban on short-term rentals.

N. On October 3, 2019, the City Council Administration and Finance Subcommittee, received a report the short and long-term financial implications of a potential ban on STRs and recommended that requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

O. On October 28, 2019, the City Council received financial analysis on the implications and potential impacts of a ban on short-term rentals. Council also discussed the potential options and procedures for banning short-term rentals, whether an amendment to the Local Coastal Program (LCP) is necessary for a short-term rental ban, and approaches other coastal cities have taken to legislate short-term rentals and associated litigation in those cities. Council directed staff to initiate a ZTA and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals to include provisions similar to Santa Monica's home-sharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance

(ZTA No. 17-002) to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

P. On December 3, 2019, the City Council held a duly noticed public hearing on ZTA No. 17-002. The City Council did not move forward with ZTA No. 17-002 at that time but did adopt Resolution No. 19-53 initiating a new LCPA No. 19-003 and ZTA No. 19-005 to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica's ordinance requires the presence of an onsite host within the rented dwelling unit, known as a "home-share" or a "hosted" rental. The City Council's direction was to require a "host" to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The City Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included.

Q. Beginning in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings began to be held virtually in April. Legislative matter drawing extensive public interest were temporarily postponed. On June 8, 2020, the Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission for a virtual public hearing.

R. On June 22, 2020, in response to immediate resident concerns about neighborhood impacts from short-term rentals, the City Council directed staff to bring back the ordinance presented to the City Council on December 3, 2019 (ZTA No. 17-002) establishing provisions to regulate short-term rental property.

S. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record pertaining to hosted short-term rental regulations. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City Council adopt ZTA No. 19-005, with modifications, including that short-term rental of guest houses not be allowed, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

T. On August 10, 2020, the City Council held a duly noticed public hearing on ZTA No. 17-002 (Ordinance No. 468), reviewed and considered the staff report, written reports, public testimony, and other information in the record. City Council continued Ordinance No. 468 to the September 14, 2020 Regular meeting in order to consider it concurrently with the hosted short-term rental amendments (LCPA No. 19-003 and ZTA No. 19-005) and with a revised version of Ordinance No. 468. Council directed staff to modify Ordinance No. 468 in order to remove the primary resident requirement and certain other requirements to focus on providing enforcement tools against nuisance properties while LCPA No. 19-003 is being processed.

U. On September 14, 2020, the City Council re-opened the public hearing on ZTA No. 17-002 (Ordinance No. 468) as revised to focus on enforcement, reviewed and considered the agenda report, written reports, public testimony, and other information in the entire record of the City's consideration of short-term rental regulations.

SECTION 2. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is amended as follows:

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

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and

2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

"Short-term rental" of property shall mean the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of thirty (30) consecutive days or less to a transient.

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

Section 17.55.010 Short-term Rental Permit Required.

A. Short-term rental of property (or the advertisement, offer, or facilitation, of such rental), is prohibited unless conducted in strict compliance with the requirements of this chapter by

an owner who possesses a valid short-term rental permit. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental. Any offer or advertisement for the short-term rental of property in the city that does not contain a valid short-term rental permit number, or which the City identifies as illegal, shall be immediately removed.

B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented).

C. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:
    1. Contact information for the owner of the property, including phone number and email.
    2. Contact information for the owner's agent as required by Section 17.55.020(A) (6). An owner may serve as the owner's agent. Contact information for the owner's agent will be made available to the public upon request.
    3. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.020(C) paired with an attestation that the applicant is in full compliance with the compliance agreement and not in default or breach must be included as of January 1, 2023.
    4. Attestation and agreement to comply with the requirements of this Chapter.
    5. Proof that the owner and operator of the rented property is in compliance with Chapter 3.24 of this code.
    6. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property.
    7. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that applicant has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the applicant maintains a short-term rental permit for the property.
    8. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy.
    9. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis.

D. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.

E. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

F. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes, or immediately for any change in the owner's agent contact information. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection C of this Section shall constitute a material change. A permittee may not cure a violation of this Chapter by seeking to amend a short-term rental permit after a violation occurs; short-term rental of a property may only be conducted as specifically authorized by an active short-term rental permit.

G. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.
H. No Transfer or Assignment. A short-term rental permit may not be assigned or transferred to another person.
I. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.
J. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted
K. The City Manager or her/his designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.020 Specific Requirements for Short-term Rentals.

A. The following requirements shall be strictly adhered to by those conducting the short-term rental of property:
    1. The short-term rental activity complies with all short-term rental permit conditions, the requirements of this Chapter, and any regulations promulgated pursuant to this Chapter
    2. The owner shall collect and remit transient occupancy tax, in coordination with any hosting platform (if utilized), to the City and comply with all City transient occupancy tax requirements as set forth in Chapter 3.24 of this Code.
    3. The owner shall take responsibility for, and actively prevent, any nuisance activities that may take place as a result of short-term rental activities.
    4. The owner shall ensure that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
    5. The owner's agent, with access to the dwelling unit and authority to fix any problems or violations of this chapter, must be available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any guest staying at the property to answer a call from the City, an agent authorized by the City to make such calls or a guest when there is a guest renting the property.
    6. Owner or owner's agent must 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 her/his designee for purposes of inspection or audit.
    7. Owner or owner's agent must 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. The maximum occupancy of a short-term rental property (including the guests, owner, and any other natural persons) 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 fourteen (14) people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code. This occupancy, as listed on the short-term rental permit, shall not be exceeded at any time the property is rented.
    9. The short-term rental permit number must be prominently posted on all advertisements for the short-term rental of the property.

10. The short-term rental activity shall comply with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.

B. No person shall offer, facilitate an offer, or allow short-term rental of property in any location not specifically identified and approved on a short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.

C. As of January 1, 2023, short-term rental of property is prohibited on any property unless the owner of the property (1) has obtained a valid OWTS operating permit for the property pursuant to Chapter 15.44 or (2) has entered a compliance agreement with the City excusing such compliance, and is in compliance with the compliance agreement and not in default or breach. In addition to all other remedies, a violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:

1. The owner has not paid all transient occupancy tax due or is not in compliance with Chapter 3.24 of this Code
2. The property has outstanding code enforcement violations.
3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
5. The owner has failed to amend an application as required by Section 17.55.010(G).
6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this Chapter.
7. The property has received two or more citations for violations of the City's noise ordinance within a period of 12 consecutive months.
8. Failure to comply with Section 17.55.020(C)
9. Failure to comply with the requirements of Section 17.55.040
10. A holder of a Short Term Rental Permit has received a total of three (3) or more citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months:
    a. The requirements of Sections 17.55.020(A) (3), (4), (6), (7), (9), 17.55.040, or violation of any condition or requirement of the short-term rental permit.

17.55.040 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.050 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant nor for that location for a twelve (12) month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(10), (3) two (2) or more citation for violation of the City's noise ordinance in a period of twelve (12) consecutive months, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation and after a new short-term rental permit is issued.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other penalty) result in the property and applicant being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.
D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.060 Appeals.

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.
D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.

E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.070 Hosting platform responsibilities.

A. Hosting platforms shall be responsible for collecting all applicable transient occupancy tax and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of transient occupancy tax collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the transient occupancy tax the hosting platform failed to collect and/or remit to the City.
B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.
C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.
D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to an unpermitted short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.
E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C) and (D) above, shall be presumed to be in compliance with this Chapter. If technical issues pose a substantial obstacle to compliance with this Section, a hosting platform may also satisfy these obligations pursuant to a compliance agreement with the City that prevents booking transactions for unpermitted short-term rentals, collects all transient occupancy tax due, and complies with the disclosure requirements of this Section.
F. The provisions of this Section 17.55.070 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.080 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 Section 17.55.010(A) shall be subject to a fine of $1000 per day or violation, or twice the advertised short-term rental's daily rental rate per day or violation, whichever is higher, and for all other violations an owner shall be subject to a fine of $500 per day or violation, or the short-term rental's advertised daily rate per day or violation, whichever is higher.

B. The short-term rental permit holder shall be held responsible for violations of the municipal code committed by guests at the property.

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 3. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application made after January 1, 2023, by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be made prior to or concurrent with the application for a short-term rental permit. An operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 4. Zoning Text Amendment Findings.

The City Council 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], protect rural residential character [General Plan LU Policy 1.1.4], protect and preserve the unique character of the City's distinct neighborhoods, and conserve affordable housing in the Coastal Zone [General Plan Housing Policy 1.4].

ZTA No. 17-002 will support these policies by 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

SECTION 5. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters. Further, the Ordinance is exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines which states that permitting and licensing of existing private structures involving negligible or no expansion of existing or former use in that the proposed STR permitting program will establish rules and regulations that do not expand existing residential uses. Additionally, the Ordinance is exempt pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) in that the regulatory program established will facilitate enforcement actions, such as permit revocation, for nuisance short-term rental properties.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 7. Effectiveness.

This Ordinance will become effective on January 15, 2021, following its passage and adoption.

SECTION 8. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2020.

_____
MIKKE PIERSON, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

CHRISTI HOGIN, City Attorney

RESOLUTION NO. 20-51

A RESOLUTION OF THE CITY OF MALIBU DETERMINING LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003 IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND AMENDING THE LOCAL COASTAL PROGRAM LAND USE PLAN TO MODIFY CHAPTER 3 PERTAINING TO SHORT-TERM RENTALS (CITYWIDE)

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

SECTION 1. Recitals.

A. The City of Malibu wishes to address the potential impacts of short-term rental of residential property and protect the neighborhood character in the City by adopting regulations for the short-term rental of property that prohibit use inconsistent with the General Plan and impose prohibitions and regulations consistent thereof.

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

C. On May 23, 2017, the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City Council reviewed a draft ordinance (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

D. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

E. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

F. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

G. The September 11, 2018 City Council Regular Meeting was cancelled.

H. On September 26, 2018, the City Council held a duly noticed public hearing

~~EXHIBIT 3~~

on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

I. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

J. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

K. On June 24, 2019, the City Council authorized the City Manager to execute the Professional Services Agreement with Raftelis Financial Consultants, Inc. for financial analysis services to examine the short- and long-term financial implications of a potential ban on short-term rentals.

L. On October 3, 2019, the City Council Administration and Finance Subcommittee, received a report the short and long-term financial implications of a potential ban on STRs and recommended that requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

M. On October 28, 2019, the City Council received financial analysis on the implications and potential impacts of a ban on short-term rentals. Council also discussed the potential options and procedures for banning short-term rentals, whether an amendment to the Local Coastal Program (LCP) is necessary for a short-term rental ban, and approaches other coastal cities have taken to legislate short-term rentals and associated litigation in those cities. Council directed staff to initiate a ZTA and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals to include provisions similar to Santa Monica's home-sharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance (ZTA No. 17-002) to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

N. On December 3, 2019, in compliance with Local Coastal Program (LCP) Local Implementation Plan (LIP) Chapter 19, the City Council adopted Resolution No. 19-53 to initiate Local Coastal Program (LCP) Amendment No. 19-003 to consider changes to the Malibu LCP and Zoning Text Amendment (ZTA) No. 19-005 to consider changes to Title 17 (Zoning) of the Malibu Municipal Code (MMC) and provided direction to staff on the definitions and regulations to include in the proposed amendments.

O. Beginning in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings began to be held virtually in April. Legislative matters drawing extensive public interest were temporarily postponed.

P. On March 5, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

Q. On March 12, 2020, the Special Planning Commission meeting of March 30, 2020 was adjourned to April 6, 2020 due to the COVID-19 pandemic.

R. On April 6, 2020, the Planning Commission continued the item to a date uncertain.

S. On June 8, 2020, Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission with a virtual public hearing.

T. On July 2, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

U. On July 16, 2020, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu.

V. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City Council adopt ZTA No. 19-005, with modifications, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

W. On August 20, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents for LCPA No. 19-003 was published in a newspaper of general circulation within the City of Malibu.

X. On September 14, 2020, the City Council held a duly noticed public hearing on LCPA No. 19-003, considered the recommendation by the Planning Commission,

reviewed and considered written reports, public testimony, and related information in the record.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCPA and therefore, does not apply to this application. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect

SECTION 3. Local Coastal Program Amendment Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed LCPA No. 19-003 meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act as follows:

A. The amendment maintains standards to require that development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will assure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

B. The amendment will be consistent with the following policies:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost

opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

SECTION 4. Local Coastal Program Amendment No. 19-003.

LCPA No. 19-003 includes the following amendments.

A. Amend LUP Chapter 5 (New Development), Section C (Land Use Policies), Subsection 2 (Land Use Designations) to replace the land use designation descriptions below with the amended language to read as follows:

RURAL RESIDENTIAL (RR): The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. Hosted short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City. The following maximum residential density standards shall apply:

RR1	One dwelling unit per acre
RR2	One dwelling unit per 2 acres
RR5	One dwelling unit per 5 acres
RR10	One dwelling units per 10 acres
RR20	One dwelling unit per 20 acres
RR40	One dwelling unit per 40 acres

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. Hosted short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MOBILE HOME RESIDENTIAL (MHR): The MHR designation is intended to accommodate existing mobile home parks and associated facilities. Hosted short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MULTI-FAMILY RESIDENTIAL (MF): The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted. Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City, up to a maximum of two dwelling units per parcel.

B. Amend LUP Policy 5.20 to read as follows:

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

C. Amend LUP Policy 2.34 to read as follows:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

SECTION 5. Approval.

Subject to the contingency set forth in Section 8, the City Council hereby adopts LCPA No. 19-003, amending the LCP.

SECTION 6. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA No. 3-001 to the CCC for certification, in conformance with the submittal requirements specified in California Code of Regulations, Title 14, Division 5.5., Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations section 13551, et. seq.

SECTION 7. Effectiveness.

The LCP amendment approved in this Resolution shall become effective only upon its certification by the CCC.

SECTION 8. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 14th day of September 2020.

_____
MIKKE PIERSON, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE
CHRISTI HOGIN, City Attorney

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 20-35

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE AMENDMENT TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND RECOMMENDING THAT THE CITY COUNCIL ADOPT ONLY ZONING TEXT AMENDMENT NO. 19-005 REGULATING THE RENTAL OF RESIDENTIAL UNITS FOR 30 DAYS OR LESS (SHORT-TERM RENTALS) INCLUDING BUT NOT LIMITED TO REQUIRING THE PRESENCE OF AN ONSITE HOST DURING CERTAIN SHORT-TERM RENTALS, AND OTHER RESTRICTIONS (CITYWIDE)

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

SECTION 1. Recitals.

A. The City of Malibu wishes to address the potential impacts of short-term rental of residential property and protect the neighborhood character in the City by adopting regulations for the short-term rental of property that prohibit use inconsistent with the General Plan and impose prohibitions and regulations consistent thereof.

B. On December 3, 2019, in compliance with Local Coastal Program Local Implementation Plan Chapter 19, the City Council adopted Resolution No. 19-53 to initiate a Local Coastal Program (LCP) Amendment to consider changes to the Malibu LCP and a Zoning Text Amendment (ZTA) to consider changes to Title 17 (Zoning) of the Malibu Municipal Code (MMC) and provided direction to staff on the definitions and regulations to include in the proposed amendments.

C. On March 5, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

D. On March 12, 2020 the Special Planning Commission meeting of March 30, 2020 was adjourned to April 6, 2020 due to the COVID-19 pandemic.

E. On April 6, 2020, the Planning Commission continued the item to a date uncertain.

F. On July 2, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

G. On July 16, 2020, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu.

H. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City

EXHIBIT 4

Council adopt ZTA No. 19-005, with modifications, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. Local Implementation Plan (LIP) Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent an inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of, the exempt activity, they are subject to the same CEQA exemption.

The Planning Commission has analyzed the project proposal described herein. The California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Commission determined that there is no possibility the amendment will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Zoning Text Amendment.

The Planning Commission hereby recommends that the City Council amend the MMC as detailed in Exhibit A.

SECTION 4. Zoning Text Amendment Findings.

Pursuant to MMC section 17.74.040, the Planning Commission hereby makes the following findings and recommends to the City Council that the MMC be amended as stated in Exhibit A of this resolution.

A. The subject zoning text amendment is consistent with the objectives, policies, general land uses and programs specified in the General Plan. The proposed amendment serves to enhance the Malibu General Plan Mission Statement, protect public safety and preserve Malibu's natural and cultural resources.

B. The Planning Commission held a public hearing, reviewed the subject zoning text amendment application for compliance with the City of Malibu General Plan, Malibu Municipal Code and the Malibu Local Coastal Program, and finds that the zoning text amendment is consistent and recommends approval.

SECTION 5. Based on the above findings, the Planning Commission hereby recommends that the City Council approve the ZTA and detailed in Exhibit A.

SECTION 6. Additional Recommendations.

The Planning Commission hereby makes the following additional recommendations for City Council consideration as part of its deliberations on the proposed amendments.

A. The Planning Commission recommends that the City Council not adopt LCPA No. 19-003 or amend the LCP in any way pertaining to short-term rentals and find such amendment is not necessary.

B. The Planning Commission recommends that the Council update City Council Policy No. 43 (Code Enforcement Policy) to exclude short-term rental complaints from the requirement that written complaints be subject to inspection on request of the person(s) accused of the violation(s).

SECTION 7. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 29th day of July 2020.

JEFFREY JENNINGS, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-35 was passed and adopted by the Planning Commission of the City of Malibu at the special meeting thereof held on the 29th day of July 2020, by the following vote:

AYES:	5	Commissioners:	Marx, Uhring, Weil, Mazza, Jennings
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		

KATHLEEN STECKO, Recording Secretary

Exhibit A: Title 17 – Zoning Code Amendments

EXHIBIT A
Malibu Municipal Code Title 17
Zoning Text Amendment

A. MMC Section 17.02.060 (Definitions) is hereby amended by adding the following definitions, inserted in alphabetical order, or replacing where there is an existing definition:

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Designated operator" means any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Hosted short-term rental" means a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with Section 17.55.040.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

"Lives onsite" means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit. This definition is applicable to Chapter 17.55 only.

"Owner" means any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner. This definition is applicable to Chapter 17.55 only.

"Primary Residence" means the usual place of return for housing of an owner as documented to the satisfaction of the City Manager by an active voter registration, a valid driver's license or other government issued identification card with the address of the property. A person can only have one primary residence. This definition is applicable to Chapter 17.55 only.

"Short-term rental" of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

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

Section 17.55.010 Short-Term Rental of Property

A. Hosted short-term rental of single-family residential property, and the short-term rental of up to two dwelling units on a multifamily housing parcel, is allowed as specified in Section 17.55.040 if conducted in compliance with this Chapter 17.55 and the owner complies with each of the following requirements:
   1. Obtains and maintains at all times a Short-Term Rental Permit issued pursuant to this Chapter.
   2. Operates the short-term rental activity in compliance with all permit conditions for short-term rental as set forth in Section 17.55.020 and any regulations promulgated pursuant to this Chapter.
   3. Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 3.24 of this Code.
   4. Takes responsibility for and actively prevents any nuisance activities that may take place as a result of short-term rental activities.
   5. Is available, or a designated operator is available, 24 hours a day, 7 days a week, at a phone number provided to both the City and any guest staying at the property to immediately answer a call from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property. No person may serve as a designated operator for more than one hosted short-term rental concurrently.
   6. Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
   7. Limits the occupancy of the short-term rental (including the host, guests, and any other natural persons) to two people more than twice the number of bedrooms listed on City or County records as determined by the Planning Director up to a maximum of 14 people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
   8. Requires all persons present at the property during a period when there is a short-term rental of a property to park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces as determined by the Planning Director are exempt from this requirement, but no more than one (1) vehicle may be parked on the street by persons present at the property during the short-term rental of the property.
   9. Maintains liability insurance to cover the short-term rental of property with minimum limits of not less than $500,000 or conducts each short-term rental transaction through a hosting platform that provides equal or greater coverage.
   10. Complies with Section 17.55.080 governing advertisements of short-term rentals.

11. Provides all guests with the Short-term Rental Code of Conduct, which shall be developed by the City Manager, and posts the same on the inside of the main entrance door to the dwelling unit rented, or on the wall adjacent thereto.
12. Provides 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 her/his designee for purposes of inspection or audit.
13. Complies with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
14. Maintains a valid Onsite Wastewater Treatment System (OWTS) operating permit pursuant to Chapter 15.44 or has entered a compliance agreement with the City excusing such compliance, and is in full compliance with the compliance agreement and not in default or breach.

Section 17.55.020 Short-Term Rental Permit Required

A. No person shall offer, facilitate an offer, or allow the short-term rental of property in any location not specifically identified and approved on a valid short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.
B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit. Each permit may include up to two listings, one per dwelling unit.
C. Application Required. To obtain a short-term rental permit an owner shall submit an application on a form to be provided by the City and signed by the owner under penalty of perjury.
D. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:
    1. Address of the proposed short-term rental
    2. Type of dwelling unit and unit designation
    3. Contact information for the owner of the property
    4. Contact information for the designated operator, if a designated operator will live onsite for the hosted short-term rental
    5. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.010(A)(14) paired with an attestation that the owner is in full compliance with the compliance agreement and not in default or breach
    6. Attestation and agreement to comply with the requirements of this Chapter
    7. Proof that the owner is in compliance with Chapter 3.24 of this code
    8. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property
    9. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that owner has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the owner maintains a short-term rental permit for the property.

10. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy
11. Attestation of compliance with the required insurance coverage
12. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis
13. The type of short-term rental permit sought: hosted or multifamily
14. If seeking a hosted short-term rental permit, proof of primary residency and attestation that the location is the owner's primary residence, meaning that the owner lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the owner's primary residence for the duration of the permit shall suffice
15. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire building, and an attestation that all dwelling units (except for two) are rented on a long term-basis per Section 17.55.040(B). The permit holder shall maintain copies of the leases for all tenants documenting compliance at all times with Section 17.55.040(B) for a period of three years following the expiration of the short-term rental permit.

E. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.
F. Notice of Approval. Upon approval, the Planning Director shall provide, at the owner's expense, the contact information for the owner or designated operator identified in 17.55.010(A)(5) to all dwelling units within 500 feet of the short-term rental unit's parcel boundary.
G. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.
H. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection (D) of this Section shall constitute a material change.
I. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.
J. No Transfer or Assignment. A short-term rental permit may not be assigned or transferred to another person.
K. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.
L. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.
M. Possession of a short-term rental permit does not excuse the holder from any other requirements of this code, including but not limited to meeting transient occupancy tax or special event permit requirements.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit.

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:
    1. The owner has not paid all TOT due or is not in compliance with Chapter 3.24 of this code.
    2. The property has outstanding code enforcement violations.
    3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
    4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
    5. The owner has failed to amend an application as required by Section 17.55.020(H).
    6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter.
    7. The property has received more than one citation for violation of the City's noise ordinance within a period of 12 consecutive months.
    8. Failure to comply with Section17.55.010(A)(14)
    9. A holder of a Hosted Short-term Rental Permit receives a total of two citations for violation of any combination of the following requirements within a period of 12 consecutive months, or a holder of a Multifamily Short-term Rental Permit receives a total of two citations for violation of any combination of the following requirements within a period of 12 consecutive months:
        i. The requirements of Sections 17.55.010(A)(4), (7), (8), (11), (12), 17.55.040(A), and Section 17.55.080.

17.55.040 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Hosted Short-term Rental Permit. A primary resident owner may obtain this type of permit which allows hosted short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. The owner, or designated operator, must live onsite during any period of rental, and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner or designated operator must be located onsite, and present immediately upon request, during the hours of 8 p.m. to 6 a.m. during any period that the unit is rented. Multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that a primary resident owner of a condominium unit may obtain this type of permit for the unit where he or she has established his or her primary residence.
B. Multifamily Short-term Rental Permit. Owners of entire multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes,

condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to 40% of the units in the building, up to a maximum of two units, so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

17.55.050 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the owner are paid in full, including the renewal fee.

17.55.060 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that owner and location for a 12 month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the owner knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(9), or (3) more than one citation for violation of the City's noise ordinance in a period of 12 consecutive months, a new application shall not be approved for a period of at least 12 months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of 12 months from the date of revocation.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other penalty) result in the property and owner being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.
D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.070 Appeals.

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would

like to be considered.

B. The completed appeal form must be delivered to the City Clerk within 30 calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.

C. Failure to deliver the completed appeal form as required by section (B) above will result in the denial or revocation being deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.

E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 Advertisement and Facilitation of short-term rentals

A. The owner shall include and prominently post the following information in any advertisement for short-term rental:
   1. The short-term rental permit number issued by the City;
   2. That the owner lives onsite and the owner or designated operator will live onsite throughout the visitor's stay unless the advertisement is for a permitted multifamily short-term rental;
   3. The permitted occupancy of the short-term rental as specified in the short-term rental permit application;
   4. The permitted number of visitor vehicles, in accordance with Section 17.55.010(A)(8);
   5. Any other information required by regulations promulgated pursuant to this Chapter.

B. No advertisements regarding the availability of a dwelling unit for short-term rental shall be posted in or on any exterior area of the dwelling unit, any exterior area of any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.

C. The address of the property shall be prominently displayed.

D. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental.

E. Any offer or advertisement for the short-term rental of property in the City that does not contain a valid short-term rental permit number, or which the City identifies as illegal to the person or entity advertising or offering the rental, shall be immediately removed from any location it is posted, whether online or otherwise.

17.55.090 Hosting platform responsibilities.

A. Hosting platforms shall be responsible for collecting all applicable TOT and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the TOT the Hosting platform failed to collect and/or remit to the City.

B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price

paid for each stay.

C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.
D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.
E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C), (D) and (E) above, shall be presumed to be in compliance with this Chapter and shall not be found in violation of Section 17.55.080.
F. The provisions of this Section 17.55.090 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.100 Regulations.

The City Manager or designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.110 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 Section 17.55.020(A) by an owner shall be subject to a fine of $1000 per day or violation, or twice the short-term rental's advertised daily rental rate per day or violation, whichever is higher, and for all other violations an owner shall be subject to a fine of $500 per day or violation, or the short-term rental's advertised daily rental rate per day or violation, whichever is higher.
B. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code or local coastal program committed by guests at the property.
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.

City Council Meeting
08-10-20
Item
4.C.

Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: July 30, 2020 Meeting date: August 10, 2020

Subject: Interim Short-Term Rental Ordinance

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 468 (Attachment 1) amending Title 17 (Zoning) of the Malibu Municipal Code and adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 468 for the August 24, 2020 Regular City Council Meeting.

FISCAL IMPACT: In Fiscal Year 2018-2019 the City collected $2.42 million from Transient Occupancy Tax (TOT) of short-term residential rentals, and in Fiscal Year 2019-2020 the City anticipates it will collect $1.7 million (unaudited). The Adopted Budget for Fiscal Year 2020-2021 anticipates that the City will receive $1.3 million. Ordinance No. 468 is anticipated to reduce the TOT collected from short-term residential rentals, but the extent of this decrease cannot be determined at this time. The impacts from this ordinance are expected to be significantly less than for the Santa Monica-style ("hosted") ordinance, which was considered by the Planning Commission on July 29, 2020.

The proposed ordinance provides for a new permit with an associated fee. Staff will return to Council with a revised Fee Schedule before Ordinance No. 468 is scheduled to go into effect. All associated budget amendments to revenue and expenses will be brought to Council as part of the mid-year budget process in January 2021.

~~EXHIBIT 5~~

WORK PLAN: This item was included as item 4d in the Adopted Work Plan for Fiscal Year 2020-2021.

DISCUSSION: The item before the Council is the first step toward a new permitting system and regulations for short-term rentals in the City. Two efforts are proceeding concurrently. The item before the City Council is an update to Zoning Text Amendment (ZTA) No. 17-002, an amendment to the Malibu Municipal Code (MMC) zoning provisions, which Council has previously considered, which, if approved, will establish an Interim Short-term Rental Ordinance. The other effort is a Draft ZTA and an amendment to the City's Local Coastal Program (LCP). That Draft ZTA/LCPA, which is described in more detail below, is being heard by the Planning Commission on August 10, 2020, and will be scheduled for the Council to consider thereafter. The ZTA/LCPA is intended to supersede the subject ZTA in the future.

Background

On December 3, 2019, the Council considered ZTA No. 17-002 (presented as Ordinance No. 458) to regulate the short-term rental (30 days or less) of residential property, based on extensive Council direction provided at prior public hearings. Prior to Council's consideration, the Planning Commission considered the ZTA at its meetings on November 20, 2017, and May 7, 2018, and the Council considered the item on September 26, 2018, and July 9, 2018, before the Woolsey fire delayed further proceedings.

On December 3, 2019, the Council did not move forward with ZTA No. 17-002 but did initiate a new LCPA and ZTA to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica's ordinance requires the presence of an onsite host within the rented dwelling unit, known as a "home-share" or a "hosted" rental. The Council's direction was to require a "host" to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included in the LCPA/ZTA.

On July 29, 2020, the Planning Commission held a public hearing to review the Draft LCPA and ZTA that includes the hosted rental system. The Draft LCPA and ZTA will be presented to Council in the coming weeks, and then must be certified by the California Coastal Commission (CCC) before it can become effective.

On June 22, 2020, in response to resident concerns about short-term rentals and the need for regulation to address neighborhood impacts especially during the ongoing COVID-19 pandemic, the Council, by consensus, directed staff to return with an update of ZTA No. 17-002 to establish an interim ordinance while the LCPA and ZTA are processed. The proposed ordinance would put in place a short-term rental (STR)

permitting system and new regulations to address nuisance issues and impacts on neighborhoods and also attach significant penalties to violations while the LCPA and ZTA continue through the approval process.

The proposed ordinance does not change the uses currently allowed in the City, and instead, imposes regulations to address nuisance issues and impacts on neighborhoods. The multifamily regulations address these issues, but also are designed to ensure that multifamily structures are not illegally converted to hotel/motel use. The City's current code language and regulations make enforcement of the City's code difficult and do not provide relief for a number of the impacts of short-term rental use. The multifamily regulations are particularly important as the illegal conversion of these structures into effective hotel/motel use threatens some of the most affordable housing in the City.

Summary of the Proposed Ordinance

Ordinance No. 468 establishes a STR permit system with three types of permits: 1) primary resident, 2) non-primary resident, and 3) multifamily with different permit requirements and permissions for each permit type that must be renewed annually. In general, the permit requirements and permissions proposed are stricter for non-primary resident permits and multifamily permits than for primary residents in order to minimize impacts and nuisance issues and preserve neighborhood character.

The following is a summary of the key points of Ordinance No. 468 and the STR permit system:

- Limits individuals to one active STR permit
- Requires a 24/7 contact that can address STR issues
- Establishes maximum occupancy rates based on the number of bedrooms
- Prohibits on-street parking, with an exception for the few homes that have no onsite parking
- Requires a valid OWTS Operating Permit for the property or a compliance agreement with the City[1]
- Establishes that permits may be denied or revoked if:
    - The owner has not paid all TOT due
    - The property has outstanding code violations
    - The property does not comply with all applicable safety codes, laws or ordinances
    - The owner has falsified the application in any way

[1] If a property does not have an operating agreement, the owner may enter into a City-approved compliance agreement pursuant to MMC section 17.55.020(C) to satisfy the requirement.

    - The owner has failed to amend the application (such as with updated 24/7 contact information)
    - The property is not in condition to be rented in accordance with the ordinance requirements
    - The property has received more than two citations for violation of the City's noise ordinance within a twelve-month period
    - For primary resident STR permits, the property has received three citations for other violations in 12 months, and for non-primary or for multifamily STR permits, the property has received two citations in 12 months
- Requires that applicants seeking a primary resident STR permit provide proof to demonstrate primary residency government issued identification will be required (which is the same proof required for Woolsey fire fee waivers) and attest that the property is used as their primary residence for at least 185 days per year

The ordinance places additional restrictions on non-primary resident STR permits and on multifamily STR permits to prevent the conversion of permanent housing into solely STR rental and/or hotel/motel use including:

- Non-primary resident permits would only allow the short-term rental of property between April 1 and September 30
- Multifamily permits would allow a maximum of two units to be rented on a multifamily property (but only if all other units are rented on a long-term basis)
- Non-primary resident permits and multifamily permits can be revoked or denied for two citations/violations instead of three

Under this system, if a permit is denied or revoked, the short-term rental of property must cease immediately and shall not be permitted again for 12 months. Any short-term rental of property during this period would result in additional penalties, including an extension of the period rentals are prohibited for an additional six-month period for each violation.

Updates to the Proposed Ordinance since December 3, 2019

Staff reviewed the ordinance presented to the Council on December 3, 2019, and has made some modifications to better align with the Santa Monica-style ordinance of the LCPA/ZTA that is concurrently being processed and to address more recent constraints on City resources and staff time as a result of the COVID-19 pandemic. The modifications highlighted below are intended to reduce the burden to homeowners and staff to implement this ordinance and provide for a smoother transition if the Santa Monica-style ordinance is approved as proposed.

Proof of Primary Residence – This provision has been updated to be consistent with the primary residence documentation requirements established as part of the City's Woolsey Fire Rebuild Fee Waiver program. The Fee Waiver program (Resolution No. 20-32) requires applicants to demonstrate primary residency with an active voter registration, a valid driver's license or other government issued identification card.

Onsite Wastewater Treatment System (OWTS) – The previous version of the ordinance required property owners to either obtain a valid OWTS operating permit for the property or enter into a compliance agreement with the City to address outstanding OWTS issues. This requirement was changed to allow property owners two years (until January 1, 2023) to submit a valid OWTS operating permit. This change was made in recognition of the fact that this ordinance is intended to be superseded by the new LCPA and ZTA. Some property owners who may be eligible for a STR permit under the terms of this ordinance may no longer be eligible to rent their homes on a short-term basis under the new ZTA and LCPA and the OWTS upgrades necessary to obtain an OWTS operating permit may require a significant financial outlay from homeowners.

Notice of Approval – The previous version of the ordinance included a provision whereby once a STR permit was approved, the City would send the contact information for the owner's agent to all dwelling units within 500 feet of the short-term rental unit's parcel boundary. This provision was been removed from the proposed ordinance. This change was made in recognition of the fact that mail is not the most reliable form of notification, especially while property owners are still displaced from the Woolsey Fire, and that the contact information for the owner or owner's agent may change causing the mailers to become outdated. Instead, owners will be encouraged to reach out to their neighbors, and contact information for the owner's agent will be made available to the public upon request.

Platform Liability – A section has been added to address platform liability in the manner already implemented by the City of Santa Monica. This section includes a provision requiring platforms to disclose to the City on a regular basis certain information on each short-term rental listings located in the City. In addition, it prohibits hosting platforms from completing any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.

Enforcement and Penalties – This section has been amended to increase the potential penalties for violations of this Chapter and further deter violations. The proposed ordinance establishes that "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, or twice the advertised short-term rental's daily rental rate per day or violation, whichever is higher." Previous versions of the ordinance

stipulated that “any violation of this Chapter shall be subject to a fine of $1,000 per day or violation, or the advertised short-term rental’s daily rental rate per day or violation, whichever is higher.”

California Coastal Commission

In response to an earlier version of the Ordinance presented to the Council on September 26, 2018, the CCC staff wrote a letter to the City dated September 20, 2018, stating that “Commission staff views the City’s proposed amendment as a supportable effort to provide for some regulatory controls and management provisions for short-term rentals” (Attachment 2). The proposed ordinance does not change the uses in the City but rather adds regulations designed to limit negative impacts the City and its residents have experienced from short-term rentals while aiding enforcement.

Next Steps

Ordinance No. 468 is proposed to become effective on January 15, 2021. This is intended to allow sufficient time for the City and people currently renting their property on a short-term basis to prepare for the new STR permit protocols. City staff will initiate a robust public outreach and education campaign to notify residents and short-term rental platforms of the new permit requirements and regulations. Staff will also work to prepare the permit applications and establish a permit review process in Fall 2020 so that property owners can submit their applications well in advance of the January 15, 2021, deadline to comply with the new ordinance.

PUBLIC NOTICE: On July 16, 2020, a one-quarter page Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties; and all owners/operators currently registered with the City’s TOT Program (Attachment 3). In addition, posts were made on the City’s social media platforms.

ATTACHMENTS:

1. Ordinance No. 468 (ZTA No. 17-002)
2. September 20, 2018 Letter from California Coastal Commission staff
3. Notice of Public Hearing

ORDINANCE NO. 468

AN ORDINANCE OF THE CITY OF MALIBU AMENDING TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE AND ADDING CHAPTER 17.55 (SHORT-TERM RENTAL ORDINANCE) TO ESTABLISH PROVISIONS TO REGULATE SHORT-TERM RENTAL OF PROPERTY CITYWIDE AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby ordain 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 platforms that consolidate and facilitate the short-term rental of property, the City has seen increased violations of its prohibition against illegal hotel, motel, and bed and breakfast inn 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, 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently

prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

J. The September 11, 2018 City Council Regular Meeting was cancelled.

K. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

L. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

M. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

N. On October 28, 2019, the City Council held a duly noticed public hearing on short-term rentals and directed staff to initiate a Zoning Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

O. On December 3, 2019, the City Council held a duly noticed public hearing on ZTA No. 17-002. The City Council did not move forward with ZTA No. 17-002 at that time but did adopt Resolution No. 19-53 initiating a new Local Coastal Program Amendment (LCPA) and ZTA to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica's ordinance requires the presence of an onsite host within the rented dwelling unit, known as a "home-share" or a "hosted" rental. The City Council's direction was to require a "host" to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The City Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included.

P. On June 22, 2020, the City Council directed staff to bring back the ordinance presented to the City Council on December 3, 2019 establishing provisions to regulate short-term rental property.

Q. On August 10, 2020, the City Council held a duly noticed public hearing on the proposed ordinance, reviewed and considered the staff report, written reports, public testimony, and other information in the record and approved the ordinance and directed staff to schedule second reading and adoption for August 24, 2020.

SECTION 2. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is amended as follows:

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

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and

2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

"Short-term rental" of property shall mean the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or

consideration, of residential property, a dwelling unit, or a portion thereof, for a period of thirty (30) consecutive days or less to a transient.

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

Section 17.55.010 Short-term Rental Permit Required.

A. Short-term rental of property (or the advertisement, offer, or facilitation, of such rental), is prohibited unless conducted in strict compliance with the requirements of this chapter by an owner who possesses a valid short-term rental permit. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental. Any offer or advertisement for the short-term rental of property in the city that does not contain a valid short-term rental permit number, or which the City identifies as illegal, shall be immediately removed.
B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit. No more than two dwelling units may be approved for short-term rental on a legal lot.
C. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:
    1. Contact information for the owner of the property, including phone number and email.
    2. Contact information for the owner's agent as required by Section 17.55.020(A) (6). An owner may serve as the owner's agent. Contact information for the owner's agent will be made available to the public upon request.
    3. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.020(C) paired with an attestation that the applicant is in full compliance with the compliance agreement and not in default or breach must be included as of January 1, 2023.
    4. Attestation and agreement to comply with the requirements of this Chapter.
    5. Proof that the owner and operator of the rented property is in compliance with Chapter 3.24 of this code.
    6. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property.
    7. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that applicant has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the applicant maintains a short-term rental permit for the property.
    8. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy.
    9. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis.
    10. The type of short-term rental permit sought: primary resident, non-primary resident, or multifamily.

11. If seeking a primary resident short-term rental permit, proof of primary residency and attestation that the location is the applicant's primary residence, meaning that the applicant lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the applicant's primary residence for the duration of the permit shall suffice. Primary residency must be established with a valid active voter registration, driver's license, or other government-issued identification card that includes the address of the property for which a short-term rental permit is sought.
12. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire building, and an attestation that all dwelling units (except for two) are rented on a long term-basis per Section 17.55.040(C). The permit holder shall maintain copies of the leases for all tenants documenting compliance at all times with Section 17.55.040(C) for a period of three years following the expiration of the short-term rental permit.

D. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.
E. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.
F. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection C of this Section shall constitute a material change.
G. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.
H. No Transfer or Assignment. A short-term rental permit may not be assigned or transferred to another person.
I. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.
J. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted
K. The City Manager or her/his designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.020 Specific Requirements for Short-term Rentals.

A. The following requirements shall be strictly adhered to by those conducting the short-term rental of property:
    1. The short-term rental activity complies with all short-term rental permit conditions, the requirements of this Chapter, and any regulations promulgated pursuant to this Chapter
    2. The owner shall collect and remit transient occupancy tax, in coordination with any hosting platform (if utilized), to the City and comply with all City transient occupancy tax requirements as set forth in Chapter 3.24 of this Code.

3. The owner shall take responsibility for, and actively prevent, any nuisance activities that may take place as a result of short-term rental activities.
4. All persons present at the property during a period when there is a short-term rental of a property must park all vehicles onsite; offsite or on-street parking shall only be allowed pursuant to a special event permit issued pursuant to Chapter 5.34 of this code. Properties that do not have onsite parking spaces as determined by the Planning Director are exempt from this requirement, but no more than one (1) vehicle may be parked on the street by persons present at the property during the short-term rental of the property.
5. The owner shall ensure that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
6. The owner's agent, with access to the dwelling unit and authority to fix any problems or violations of this chapter, must be available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the City and any guest staying at the property to answer a call from the City, an agent authorized by the City to make such calls or a guest when there is a guest renting the property.
7. Owner or owner's agent must 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 her/his designee for purposes of inspection or audit.
8. Owner or owner's agent must 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.
9. The maximum occupancy of a short-term rental property (including the guests, owner, and any other natural persons) 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 fourteen (14) people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code. This occupancy, as listed on the short-term rental permit, shall not be exceeded at any time the property is rented.
10. The short-term rental permit number must be prominently posted on all advertisements for the short-term rental of the property.
11. The short-term rental activity shall comply with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.

B. No person shall offer, facilitate an offer, or allow short-term rental of property in any location not specifically identified and approved on a short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.

C. As of January 1, 2023, short-term rental of property is prohibited on any property unless the owner of the property (1) has obtained a valid OWTS operating permit for the property pursuant to Chapter 15.44 or (2) has entered a compliance agreement with the City excusing such compliance, and is in compliance with the compliance agreement and not in default or breach. In addition to all other remedies, a violation of this requirement shall provide grounds for denial or revocation of a short-term rental permit, or the renewal of such permit.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:

1. The owner has not paid all transient occupancy tax due or is not in compliance with Chapter 3.24 of this Code
2. The property has outstanding code enforcement violations.
3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
5. The owner has failed to amend an application as required by Section 17.55.010(G).
6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this Chapter.
7. The property has received more than two citations for violations of the City's noise ordinance within a period of 12 consecutive months.
8. Failure to comply with Section 17.55.020(C)
9. Failure to comply with the requirements of Section 17.55.040
10. A holder of a Primary Resident Permit receives a total of three (3) citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months, or a holder of a Non-Primary Resident Permit or Multifamily Permit receives a total of two (2) citations for violation of any combination of the following requirements within a period of twelve (12) consecutive months:

a. The requirements of Sections 17.55.020(A) (3), (4), (7), (8), (9), 17.55.040, regulations propounded by the City Manager per Section 17.55.010(L), or violation of any condition or requirement of the short-term rental permit.

17.55.040 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Primary Resident Permit. A primary resident owner may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. Multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that primary resident owners of condominiums may obtain this type of permit for the unit where he or she has established his or her primary residence.

B. Non-Primary Resident Permit. An owner may obtain this type of permit which allows short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid even if the permitted location is not the owner's primary residence. Property subject to this type of permit may only be rented on a short-term basis during the period between April 1 and September 30 each year. Multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that owners of condominiums may obtain this type of permit.

C. Multifamily Permit. Owners of entire multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two (2) units in the building so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term.

17.55.050 Renewal of Short-term Rental Permit.

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.
B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.
C. No permit shall be renewed unless all city fees and taxes owed by the applicant are paid in full, including the renewal fee.

17.55.060 Effect of Denial or Revocation of Short-term Rental Permit.

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that applicant nor for that location for a twelve (12) month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the applicant knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(10), (3) more than two (2) citations for violation of the City's noise ordinance in a period of twelve (12) consecutive months, a new application shall not be approved for a period of at least twelve (12) months from the date of the last violation or short-term rental of the property, whichever is later.
B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve (12) months from the date of revocation.
C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other

penalty) result in the property and applicant being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.

D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.070 Appeals.

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.
B. The completed appeal form must be delivered to the City Clerk within thirty (30) calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.
C. Failure to deliver the completed appeal form as required by section (B) above the denial or revocation shall be deemed final.
D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.
E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 Hosting platform responsibilities.

A. Hosting platforms shall be responsible for collecting all applicable transient occupancy tax and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of transient occupancy tax collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the transient occupancy tax the hosting platform failed to collect and/or remit to the City.
B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.
C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.
D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to an unpermitted short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.
E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C) and (D) above, shall be presumed to be in

compliance with this Chapter. If technical issues pose a substantial obstacle to compliance with this Section, a hosting platform may also satisfy these obligations pursuant to a compliance agreement with the City that prevents booking transactions for unpermitted short-term rentals, collects all transient occupancy tax due, and complies with the disclosure requirements of this Section.

F. The provisions of this Section 17.55.080 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.090 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, or twice the advertised short-term rental's daily rental rate per day or violation, whichever is higher.

B. The short-term rental permit holder shall be held responsible for violations of the municipal code committed by guests at the property.

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 3. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be prior to or concurrent with the application for a short-term rental permit. An operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 4. Zoning Text Amendment Findings.

The City Council 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. The proposed ordinance facilitates enforcement of the MMC and LCP and takes steps to limit the impacts from the short-term rental of property.

SECTION 5. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 7. Effectiveness.

This Ordinance will become effective on January 15, 2021, following its passage and adoption.

SECTION 8. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2020.

_____
MIKKE PIERSON, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

_____
CHRISTI HOGIN, City Attorney

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

RECEIVED
SEP 21 2018
CITY CLERKS OFFICE
CITY OF MALIBU

September 20, 2018

Bonnie Blue, Planning Director
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265

Subject: Short-term Rental Ordinance

Dear Ms. Blue:

Commission staff has reviewed the September 6, 2018 staff report regarding the subject proposed Malibu Municipal Code (MMC) amendment to establish provisions to regulate short-term rental of property citywide that is scheduled to be considered by the Malibu City Council at its September 26, 2018 hearing. We appreciate the opportunity to provide the following comments.

Based on a review of the draft ordinance language and the City's staff report, it is Commission staff's understanding that the City is considering the adoption of a ordinance that would allow for the continuance of short-term rental of residential property in single-family homes in the City and allow for the rental of a maximum of two units per multifamily apartment property within the City; would create a new permitting system where the owner of a short-term rental property must possess a valid Short-Term Rental Permit (STR Permit) and Onsite Wastewater Treatment System Operating Permit; establish limits on the number of operating permits a natural person may be issued; requirements regarding onsite parking; and enforcement protocols.

Commission staff views the City's proposed amendment as a supportable effort to provide for some regulatory controls and management provisions for short term rentals. However, we believe that vacation rental regulations in the coastal zone must occur within the context of the City's LCP. We encourage the City to submit an LCP amendment to the Commission that includes policies and provisions that reflects the subject MMC amendment regarding short-term rentals. We are happy to coordinate with City Staff and provide comments on specific LCP amendment language once it is developed.

Thank you for your attention to this matter. We appreciate the City's consideration of our comments. Please feel free to contact me if you have any questions.

FILED
City of Malibu
Office of the City Clerk
Meeting Date 9/26/18
Agenda Item # 4B

Sincerely,

Denise Venegas

Denise Venegas
Coastal Program Analyst

cc: Reva Feldman, City Manager, City of Malibu

CC: Council; CM; CA; PL; Ref. Binder; Original 9/26/18 Agenda File

ATTACHMENT 2

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, August 10, 2020, at 6:30 p.m.** on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order (revised July 1, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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 citycouncil@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 by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

ZONING TEXT AMENDMENT No. 17-002 (Short-term Rental Ordinance) – On December 3, 2019, City Council considered Zoning Text Amendment (ZTA) No. 17-002, an ordinance to regulate the short-term rental (30 days or less) of residential property, prepared by staff based on extensive Council direction provided at prior public hearings. These hearings occurred after the Planning Commission considered the ZTA at its meetings on November 20, 2017 and May 7, 2018. The Council did not move forward with ZTA No. 17-002 at that time, but did initiate a new Local Coastal Program Amendment (LCPA) and ZTA to consider a regulatory system similar to that adopted by the city of Santa Monica. On June 22, 2020, Council directed staff to return with an update of ZTA No. 17-002, which imposes rules, regulations and limitations on the short term rental of property in the city, including both single-family residential and multifamily property. The new LCPA and ZTA to consider a regulatory system similar to that adopted by the city of Santa Monica will still proceed forward as well, and would supersede ZTA No. 17-002 if adopted.

Thus at its August 10, 2020, meeting, the City Council will consider ZTA No. 17-002 which includes, but is not limited to, provisions for a short-term rental permitting system with application requirements for property owners, property owner responsibilities to respond and correct problems, limitations on the short term rental of property and penalties for violations. All full chronology of the City's consideration of short-term rental regulations, prior staff reports and documents can be found on the City's Short-term Rental website at malibucity.org/STR.

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Justine Kendall, Associate Planner (310) 456-2489, extension 301

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

A written staff report will be available at or before the hearing. All persons wishing to address the City Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents can be reviewed by any interested person by contacting the Case Planner during regular business hours. Oral and written comments may be presented to the City Council on, or before, the date of the meeting.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Justine Kendall, at (310) 456-2489, extension 301.

_____

Bonnie Blue, Planning Director

Publish Date: July 16, 2020

Kathleen Stecko

Subject: Planning Commission - Wed, July 29th Meeting Agenda & Notice of Availability of LCPA Materials - Short-Term Rentals
Attachments: Preliminary CCC Comments 7.29.20_Exhibit A - LCPA rev.docx.PDF.pdf

From: Venegas, Denise@Coastal <Denise.Venegas@coastal.ca.gov>
Sent: Wednesday, July 29, 2020 11:23 AM
To: Bonnie Blue <bblue@malibucity.org>
Cc: Christensen, Deanna@Coastal <Deanna.Christensen@coastal.ca.gov>
Subject: RE: Planning Commission - Wed, July 29th Meeting Agenda & Notice of Availability of LCPA Materials - Short-Term Rentals

Hi Bonnie –

Thanks for providing us the opportunity to review and provide comments on the City's LCP Amendment for STRs. Please see the attached preliminary comments and edits to the City's draft STR ordinance. Please let me know if you have any questions.

Thanks,
Denise

Denise Venegas
Coastal Program Analyst
California Coastal Commission
South Central Coast District
89 South California Street, Suite 200
Ventura, CA 93001
Denise.Venegas@coastal.ca.gov | (805) 585-1800

~~EXHIBIT 6~~

EXHIBIT A

LOCAL COASTAL PROGRAM AMENDMENT

A. Land Use Plan (LUP) Chapter 5 (New Development), Section C (Land Use Policies), Subsection 2 (Land Use Designations) is hereby amended to read as follows:

RURAL RESIDENTIAL (RR): The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City. The following maximum residential density standards shall apply:

RR1	One dwelling unit per acre
RR2	One dwelling unit per 2 acres
RR5	One dwelling unit per 5 acres
RR10	One dwelling units per 10 acres
RR20	One dwelling unit per 20 acres
RR40	One dwelling unit per 40 acres

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MOBILE HOME RESIDENTIAL (MHR): The MHR designation is intended to accommodate existing mobile home parks and associated facilities. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MULTI-FAMILY RESIDENTIAL (MF): The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted. Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City, up to a maximum of two dwelling units per parcel.

B. LUP Policy 5.20 is amended to read as follows:

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

C. LUP Policy 2.34 is amended to read as follows:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

D. Local Implementation Plan (LIP) Section 2.1 is amended by adding the following definitions, inserted in alphabetical order, or replacing where there is an existing definition:

DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is authorized by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and

B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and

C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling ~~unless permitted pursuant to a valid short-term rental permit issued by the City~~. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

E. LIP Section 3.3(Q) Planned Development (PD) Zone is amended to read as follows:

Q. Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development, consistent with the PD Land Use Designation in chapter 5 (Section C.2) of the Land Use Plan consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcel Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018, known as Malibu Coast Estate, and formerly known as the "Crummer Trust" parcel.

3

Commented [CCC1]: It's not clear if the proposed language is meant to exempt the requirement for containing no kitchens or to not be rented or otherwise used as a separate dwelling.

We recommend these revisions to clarify the intent of the proposed amendment which is to allow guest houses to be used as STRs pursuant to a STR permit.

2. Permitted Uses

The uses and structures permitted in Malibu Coast Estate are as follows. Lot numbers are as identified on the "Malibu Coast Estate Planned Development Map 1" of this LIP.

a. Lot Nos. 1—5

i. One single-family residence per lot.
ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
iii. Domestic animals, kept as pets.
iv. Landscaping.
v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

…

F. LIP Section 13.4.9.1 is added to Chapter 13 (Coastal Development Permits):

13.4.9.1 Exemption for Short-term Rental of Residential Property

Short-term rental use of residential property as defined in Section 2.1 of this LIP and which meet all of the following criteria.

A. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.
B. The short-term rental use is conducted in a dwelling unit that was lawfully established as described in LIP Section 13.3(F).
C. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

G. LIP Table B – Permitted Uses is amended by inserting the following new permit type and uses:

LIP Table B – Permitted Uses

KEY TO TABLE (In addition to a coastal development permit, ~~the following~~ MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	**Permitted use**
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**

Commented [CCC2]: Since short-term rental use of residential property is not a category of exemption but more of a use that is not considered development, we recommend moving this section outside of LIP Chapter 13.4 (Exemptions) and into another LIP Chapter.

Commented [CCC3]: Not certified language. Needs to be updated to reflect certified LCP Amendment No. LCP-4-MAL-13-0241-1 (Affordable Housing/Reasonable Accommodations) as shown here. We also recommend adding STR here.

CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility
STR	Use requires valid short-term rental permit approved by the City
-	Not permitted (Prohibited)

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Single-family esidential	P	P	P	P	-	-	-	-	-	-	-	-	-	A	-	-
Manufactured homes	P	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-
Multiple-family esidential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments)	-	-	CUP	CUP	-	-	-	-	-	-	-	-	-	-	-	-
Second units	A[1]	A[1]	A[1]	A[1]	-	-	-	-	-	-	-	-	-	-	-	-
Mobile home parks	-	-	-	-	P	-	-	-	-	-	-	-	-	-	-	-
Mobile home park accessory uses (including recreation facilities, meeting ooms, management offices, storage/maintenance buildings, and other similar uses)	-	-	-	-	CUP	-	-	-	-	-	-	-	-	-	-	-
Mobile home as esidence during construction	P	P	P	MCUP	-	-	-	-	-	-	-	-	-	-	-	-
Accessory uses (guest units, garages, barns, pool houses,	A[1]	A[1]	A[1]	A[1]	-	-	-	-	-	-	-	-	-	-	-	-

pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)																
Residential care facilities (serving 6 or fewer persons)	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-
Small family day care (serving 6 or fewer persons)	A	A	A	-	-	-	-	-	-	-	-	-	-	-	-	-
USE	**RR**	**SF**	**MF**	**MFBF**	**MHR**	**CR**	**BPO**	**CN**	**CC**	**CV-1**	**CV-2**	**CG**	**OS**	**I**	**PRF**	**RVP**
RESIDENTIAL (continued)																
Large family day care (serving 7 to 12 persons)	LFDC	LFDC	LFDC	-	-	-	-	-	-	-	-	-	-	-	-	-
Home occupations	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	-	-	-	-	-	-	-	-	-	-	-	-
Short-term rental	STR[21]	STR[21]	STR[22]	STR[22]	STR[21]	-	-	-	-	-	-	-	-	-	-	-
...																

Notes:

1 Subject to Residential Development Standards (Section 3 6)
2 Subject to Home Occupations Standards [(Section 3 6(O)]
3 Use Prohibited in Environmentally Sensitive Habitat Areas
4 This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use This floor area requirement shall not apply to the Civic Center Wastewater Treatment Facility
5 CUP for veterinary hospitals
6 Maximum interior occupancy of 125 persons
7 If exceeding interior occupancy of 125 persons
8 By hand only
9 Use permitted only if available to general public
10 Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building
11 Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Sections 4 6 2 and 6 5(G)
12 Limited to public agency use only (not for private use)
13 Accessory uses when part of an educational or non-profit (non-commercial) use However, residential care facilities for the elderly are limited to operation by a non-profit only
14 CUP for facilities within a side or rear yard when adjacent to a residentially-zoned parcel
15 Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including, but not limited to, injection wells, generators, and pump stations

16 This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with the existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility
17 Transitional and supportive housing is permitted in the same manner as one single family residence and is subject to all the restrictions that apply to single family residential uses
18 Transitional and supportive housing is permitted in the same manner as a multi-family residential use and is subject to all the restrictions that apply to multi-family residential uses
19 Multi-family development associated with an affordable housing development project is permitted by right
20 Multi-family development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3 4 5
21 Hosted short-term rental only in RR, SF and MHR zones
22 Maximum of two dwelling units per parcel for MF and MFBF zones

7

Patricia Salazar

Subject: FW: ST Rental Ordinace

From: Robert Greene <
Sent: Thursday, August 20, 2020 12:32 PM
To: City Council <citycouncil@malibucity.org>
Subject: ST Rental Ordinace

To members of the City Council:

I along with my 2 sisters are owners of a property on Malibu road. We have owned this property since the eighties and have had a property in Malibu since the 40's !
While on the one hand being extremely fortunate to own such a beautiful property, the property taxes, maintenance and ongoing upkeep run into the thousands of dollars annually. We have been able to maintain the residence with rental income we have been deriving from long term rentals the last several years. Going forward we may go back to shorter term rentals. When we offered our property for short term rentals we adhered to very strict guidelines, and rental agreements, list of house rules that had to be signed off on, we paid the non occupancy tax, registered with the City, and had no complaints from neighbors. I submit the issues with short term rentals in my opinion has been caused by a few individuals that disregarded guidelines , disregarded neighbors, were MIA with regards to supervising tenants, and operated without any regard to others. I submit for all owners to be unduly penalized- limiting their rental income, mandating an on site host which is impossible in many instances, is not equitable or workable. I question the need for this ordinance ! I highly recommend a strict licensing system which would work much better where people could lose licenses for not adhering to strict guidelines. I question the City of Malibu and short term rental ordinance's ability to police, manage, oversee rentals in Malibu .
I have rented residence properties all around the world for my family to stay in and to eliminate that short term rental option for families desiring to rent a residence in Malibu is a bad and short sighted idea
I truly question the motivation of the City Council regarding this contemplated rental ordinance. This is not a one size fits all solution. Please reconsider not moving forward with an interim short term rental ordinance or a final short term rental ordinance

Thank you

R Greene et al

Patricia Salazar

Subject: FW: Airbnb Dumps Malibu Party House | Malibu, CA Patch

Begin forwarded message:

From: JOANNE GARY <
Date: August 25, 2020 at 11:31:16 AM PDT
To: Mikke Pierson <mpierson@malibucity.org>
Cc: Paul Wolf < Joey Goodman < John Mazza < Steve Uhring < Reva Feldman <rfeldman@malibucity.org>, Rick Mullen <rmullen@malibucity.org>, Douglas Cleavenger <dcleavenger@malibucity.org>, Michael Cerveny < Jefferson Wagner <jwagner@malibucity.org>, Michael Lustic <
Subject: Airbnb Dumps Malibu Party House | Malibu, CA Patch

Mayor Mikke,

Of course, I am wishing this is 3833. Also hoping, it's just not for 30 days.

All of last week rented out: for 3 days to a group who invited friends continually for dinner parties; next a group of a dozen scary men in white tee shirts and my family and I could not hear TV, and police came but the men immediately started whispering; next a group of about 30 people for a gender reveal. The gender reveal people stated that they had rented directly from the owner. Did you get your money?

My son had no parking. Our family continues to be unsafe. So many strangers and so many cars.

As Mr. Mullens predicted the corporation will find other platforms.

We need parking permits on the hill to protect us from strangers. To continue owner occupied STRs visitors' cars should have a clearly visible permit. In our neighborhood 14 people with 7 cars is not an acceptable ordinance.

Yours truly,
Joanne Gary

https://patch.com/california/malibu/airbnb-dumps-malibu-party-house

Sent from my iPad

Patricia Salazar

Subject: FW: EVERYONE SEEMS TO BE DOING FASTER THAN STALL TACTICS BEING USED IN MALIBU WHY

From: Michael Lustig < >
Sent: Wednesday, September 2, 2020 12:44 PM
To: John Mazza <
Cc: Paul Wolf, Reva Feldman <rfeldman@malibucity.org>; Joey Goodman, Joanne Gary < Mikke Pierson <mpierson@malibucity.org>; Douglas Cleavenger <dcleavenger@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; City Council <citycouncil@malibucity.org>
Subject: Re: EVERYONE SEEMS TO BE DOING FASTER THAN STALL TACTICS BEING USED IN MALIBU WHY

Attachments available until Oct 2, 2020

Oh John! Weren't you listening at the last hearing?

Reva said the City will not hire staff to administer or enforce the STR Ordinance. (Video attached)

Reva hired and paid Host Compliance $45,000 a year to to develop the City's permitting system as well as a number of other prepatory tasks to set up for enforcement of the ordinance.

And guess what?

Host Compliance didn't do a thing, . . other than come to PC and Council to lie about how many and how fast STRs were growing.

When we did a FOIA request for information about how much of the "Scope of Work" from the Host Compliance contract had been completed - **the answer was ZERO**. Which came attached to another document showing staff making up lies in response to my request.

Sorry Pal, City Manager has no plan to serve the people.

It's all BS until this queen is brought to heal.

Best,

M

Click to Download
Reva_No_Enforcement.mp4
649.2 MB

Click to Download
RE_ FOIA Request for Copies of Host Compliance Reports.eml
71 KB

Click to Download

On Sep 2, 2020, at 12:21 PM, John Mazza <res02igz@gte.net> wrote:

> Planning director Vince Bertoni (LA) knows Malibu well and was in our planning department. for quite a while. It would be a good idea to either hire him as a consultant or at least ask for his comments on Malibu.
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>
> John Mazza

-----Original Message-----
From: Paul Wol[redacted]
To: Reva Feldman <rfeldman@malibucity.org>; John Mazza [redacted]; Joey Goodman [redacted]; JOANNE GARY [redacted]; Michael Lustig <michael@letsregulate.com>; Mikke Pierson <mpierson@malibucity.org>; Michael Lustig [redacted]; Douglas Cleavenger <dcleavenger@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; citycouncil@malibucity.org <citycouncil@malibucity.org>
Sent: Wed, Sep 2, 2020 10:40 am
Subject: EVERYONE SEEMS TO BE DOING FASTER THAN STALL TACTICS BEING USED IN MALIBU WHY

Nearly a year after city officials announced they would start holding Airbnb to a strict set of regulations to protect the housing market, L.A. and the rental platform have finally launched a system they say will make it easier to seek out and remove listings that don't adhere to the rules.

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Airbnb countered that the company had suffered layoffs that had impacted the team working on the system, and that the city was slow to provide it with information about city guidelines that would help the company design the new system—guidelines that weren't even approved until last fall, months after the ordinance went into effect.

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Patricia Salazar

Subject: FW: EVERYONE SEEMS TO BE DOING FASTER THAN STALL TACTICS BEING USED IN MALIBU WHY

From: Michael Lustig <
Sent: Wednesday, September 2, 2020 12:06 PM
To: Paul Wolf <
Cc: Reva Feldman <rfeldman@malibucity.org>; John Mazza < Joey Goodman < Joanne Gary < Mikke Pierson <mpierson@malibucity.org>; Douglas Cleavenger <dcleavenger@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; City Council <citycouncil@malibucity.org>
Subject: Re: EVERYONE SEEMS TO BE DOING FASTER THAN STALL TACTICS BEING USED IN MALIBU WHY

Attachment available until Oct 2, 2020
Paul,

The speed of government is slow. The tech sector knows this and that's why they break existing laws and make up banal and twisted excuses like, "We're not hotels were something else, we're just helping people make a little extra money to stay in their homes."

It's always been a lie. Whole unit rentals have always been the business. They are incredibly lucrative and the existence of one creates the demand for all the rest. Requiring the host to be on site is the only thing that solves the problems and mitigates the nuisances.

In any city where an ordinance takes more than 15 months you will find that Staff has been co-opted by Airbnb. . This is what happened in Malibu. This is why for two and a half years we fought to kill the draft ZTA that was written by Airbnb.

The video below includes audio recorded at a public Airbnb Clinic in 2018. The primary voice you will hear is Connie Llanos for campaign leader for Airbnb Socal. At these clinics Airbnb, coaches the mom and pops, to write emotive speeches that divide communities by taking the focus off of the important provisions that curtail and restrict STRs. The goal is obfuscate the whole unit commercial operators, and keep you talking about parking and parties and trash.

The important quote in this is this, *"I think there's a couple of things like we talked about the revenue. The city is under the council.* ***The staff know the value of our revenue, which is why they've consistently tried to come up things that are not as restrictive as the councils asked them to."***

It explains why Ms. Feldman is more loyal to Airbnb than she is to residents. She will use any convenient excuse to delay the draft ordinances because whether it's 7 months (Refused to write PC's changes), 13 months (Fire) or 10 month (Covid); Council will forget the details and the public discourse will return to square one and the the nuisances.

Even though the residents have now prevailed in shutting down the crap Airbnb draft, it only causes a delay and while it may save the city from a bad ordinance it is actually a win for Airbnb because a delay means there is still no law. Even after Council voted 5-0 in favor of the best most enforceable rules you can get.

It's called death by incrementalism, it was one of the oldest tricks in the book. It's time for Malibu to stop falling for it. It's time for Council to buck up. It's time for Reva and her staff to capitulate on this issue.

Paul, Joanne and Joey, I am retired from this fight for health reasons. You will not win it by seeking only remedy for yourselves. You must take it to the HOA's and the residents. You must try to win it for all of all of Malibu and I can help you.

Beginning in the Summer of 2017 through the present I have a kept detailed files. I happy to give you a timeline, documents, transcripts and emails that clearly detail how the City Manager has acted in direct opposition and flagrant conflict with several of the City Policies and the primary interests of residents.

My evidence doesn't show bribery. But without any doubt it details the kind of "Fuckery" that will have residents storming City Hall demanding MS. Feldman's ouster.

Good Luck, and let me know if you really want to solve the problem.

Best,

Michael Lustig

Click to Download

Connie LLanos Airbnb Leader at Malibu Clinic Sept2018.mp4
49.5 MB

On Sep 2, 2020, at 10:40 AM, Paul Wolf [redacted] > wrote:

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Patricia Salazar

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From: John Mazza
Sent: Wednesday, September 2, 2020 12:21 PM
To: Paul Wolf, Reva Feldman <rfeldman@malibucity.org>; Joey Goodman, Joanna Gary, >; Michael Lustig< Mikke Pierson <mpierson@malibucity.org>; Douglas Cleavenger <dcleavenger@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; City Council <citycouncil@malibucity.org>
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Patricia Salazar

Subject: FW: Next Short Term Rental Meeting

From: Karen Farrer <kfarrer@malibucity.org>
Sent: Wednesday, August 26, 2020 12:17 PM
To: Heather Glaser <hglaser@malibucity.org>
Subject: Fwd: Next Short Term Rental Meeting

Karen Farrer

Councilmember
City of Malibu

Begin forwarded message:

From: <Lynn Norton
Subject: Re: Next Short Term Rental Meeting
Date: August 26, 2020 at 12:05:00 PM PDT
To: <jwagner@malibucity.org>, <SPeak@malibucity.org>, <RMullen@malibucity.org>, <MPierson@malibucity.org>, <kfarrer@malibucity.org>
Cc: "Bonnie Blue" <BBlue@malibucity.org>, "Trevor Rusin" <trevor.rusin@bbklaw.com>

Dear City Council Members,

I hope you share my feeling of the importance of learning as much as we can from Coastal prior to the September Malibu City Council meeting on short term rentals. It will be good to know that THIS City Council has the issue pretty much on auto-pilot and that we can feel confident after the September meeting about a Hosted STR ordinance being timely implemented.

Voting for the ordinance without having an impassioned plan and effort to get it through Coastal, will not actually change anything.

If we can feel confident about getting through Coastal in 8 or 9 months with the Hosted STR ordinance, then we can begin the grace period for phasing out STR???s as soon as you pass an ordinance in September. Then we will really have success.

I hope Coastal will be asked to take a look at the final proposed ordinance that just went through the Malibu Planning Commission, and to write a letter saying they approve of the general concept; and asked what we can do to expedite the process of going through Coastal.

I also hope City Council members who feel strongly about this STR issue will get involved as stakeholders in the persuasive efforts with Coastal. If Malibu staff gets told it will take two years to get to Coastal, some of you should be in on that conversation and do your best to get a better answer.

Here are some good arguments for negotiations with Coastal:

??? STR???s that have no primary resident are affecting our housing stock at a time when the state is making an urgent push for municipalities to increase housing stock.
???

When people rent their entire house as an STR the prices are very high; therefore the Hosted STR ordinance would not be removing vacation rentals that provide beach access to low-income families.
???

Fall on your sword by letting Coastal know that it was always Malibu???s intention, as spelled out in our certified LCP, to disallow hotel usage in all but commercial zones, and that only because of greed and oblivion did the city start collecting TOT and neglect enforcement, and that now we are in a pickle that the current City Council would like to fix before there is a new City Council. We really just want to reassert what was already certified.
???

Full time STR???s are making neighborhoods less neighborly. And affecting school enrollment.

Thanks for all your work on this !

Lynn Norton

Patricia Salazar

Subject: FW: An STR request!

From: Anne Ready
Sent: Friday, August 21, 2020 8:50 AM
To: City Council <citycouncil@malibucity.org>
Subject: An STR request!

Dear City Council,

We've been successfully conducting STR's for nearly a decade with quiet and respectful guests paying thousands of dollars per quarter in revenues to the city and local businesses.

The secret, of course, to successful Short Term Rentals is owners carefully vetting guests beforehand to determine their numbers, ages, relationships and plans including non-smoking to protect our beaches, etc.

No guest wants an onsite babysitter and no Malibu homeowner should be burdened with that obligation.

Please just punish the bad apples and keep revenues coming into the city and local businesses with our carefully selected and vetted guests.

Thank you,

Anne Ready

Patricia Salazar

Subject: FW: EVERYONE SEEMS TO BE DOING FASTER THAN STALL TACTICS BEING USED IN MALIBU WHY

From: Paul Wolf <
Sent: Wednesday, September 2, 2020 10:40 AM
To: Reva Feldman <rfeldman@malibucity.org>; John Mazza; Joey Goodman; JOANNE GARY >; Michael Lustig >; Mikke Pierson <mpierson@malibucity.org>; Michael Lustig ; Douglas Cleavenger <dcleavenger@malibucity.org>; Jefferson Wagner >; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>; City Council <citycouncil@malibucity.org>
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Patricia Salazar

From: joey goodman [redacted]
Sent: Friday, August 21, 2020 10:28 AM
To: Douglas Cleavenger; Rick Mullen
Cc: Karen Farrer; Reva Feldman; Mikke Pierson
Subject: 3833 Paseo Hidalgo
Attachments: 908efa18-df15-42a6-996e-28e1cb671d60.mp4

Just a sample of this ongoing unacceptable behavior

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, August 10, 2020, at 6:30 p.m.** on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order (revised July 1, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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 citycouncil@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 by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

ZONING TEXT AMENDMENT No. 17-002 (Short-term Rental Ordinance) – On December 3, 2019, City Council considered Zoning Text Amendment (ZTA) No. 17-002, an ordinance to regulate the short-term rental (30 days or less) of residential property, prepared by staff based on extensive Council direction provided at prior public hearings. These hearings occurred after the Planning Commission considered the ZTA at its meetings on November 20, 2017 and May 7, 2018. The Council did not move forward with ZTA No. 17-002 at that time, but did initiate a new Local Coastal Program Amendment (LCPA) and ZTA to consider a regulatory system similar to that adopted by the city of Santa Monica. On June 22, 2020, Council directed staff to return with an update of ZTA No. 17-002, which imposes rules, regulations and limitations on the short term rental of property in the city, including both single-family residential and multifamily property. The new LCPA and ZTA to consider a regulatory system similar to that adopted by the city of Santa Monica will still proceed forward as well, and would supersede ZTA No. 17-002 if adopted.

Thus at its August 10, 2020, meeting, the City Council will consider ZTA No. 17-002 which includes, but is not limited to, provisions for a short-term rental permitting system with application requirements for property owners, property owner responsibilities to respond and correct problems, limitations on the short term rental of property and penalties for violations. All full chronology of the City's consideration of short-term rental regulations, prior staff reports and documents can be found on the City's Short-term Rental website at malibucity.org/STR.

~~EXHIBIT 8~~

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Justine Kendall, Associate Planner (310) 456-2489, extension 301

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft 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.

A written staff report will be available at or before the hearing. All persons wishing to address the City Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents can be reviewed by any interested person by contacting the Case Planner during regular business hours. Oral and written comments may be presented to the City Council on, or before, the date of the meeting.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Justine Kendall, at (310) 456-2489, extension 301.

_____

Bonnie Blue, Planning Director

Publish Date: July 16, 2020

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, September 14, 2020, at 6:30 p.m.** on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order (revised July 31, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003, ZONING TEXT AMENDMENTS NO. 19-005 and 17-002 – On July 29, 2020, the Planning Commission considered an amendment to the Local Coastal Program (LCPA) and to Title 17 (Zoning) of the Malibu Municipal Code, specifically LCPA No. 19-003 and ZTA No. 19-005, regulating the rental of residential units for 30 days or less (short-term rentals) which included, but was not limited to, amendments similar to those implemented in the City of Santa Monica including requiring the presence of an onsite host during short-term rentals, other restrictions, and clarifying permitted uses related to the short-term rental of residential property.

On August 10, 2020, the City Council held a public hearing to consider Zoning Text Amendment (ZTA) No. 17-002, which was designed to put short-term rental regulatory measures in place without changing the uses allowed in the City. ZTA No. 17-002 would be superseded by LCPA No. 19-003 and ZTA No. 19-005 after approval by City Council and upon LCPA No. 19-003 being certified by the California Coastal Commission and going into effect.

A public hearing on all of these items will be held by the City Council on September 14, 2020. This will include, but is not limited to, staff presentations on: 1) ZTA No. 17-002, as presented and discussed on August 10, 2020, 2) a revised/pared down version of ZTA No. 17-002 that focuses on providing enforcement tools against nuisance properties, and 3) LCPA No. 19-003/ZTA No. 19-005, and the Planning Commission's recommendations thereon, which include, but is not limited to, requiring an onsite host during the short-term rental of property.

The City's STR webpage has the full background and latest information on this topic: https://www.malibucity.org/str.

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Justine Kendall, Associate Planner (310) 456-2489, extension 301

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A written staff report will be available at or before the hearing. All persons wishing to address the City Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents can be reviewed by any interested person by contacting the Case Planner during regular business hours. Oral and written comments may be presented to the City Council on, or before, the date of the meeting.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Justine Kendall, at (310) 456-2489, extension 301.

_____

Bonnie Blue, Planning Director

Publish Date: August 20, 2020

Kathleen Stecko

Subject: Planning Commission - Wed, July 29th Meeting Agenda & Notice of Availability of LCPA Materials - Short-Term Rentals
Attachments: Preliminary CCC Comments 7.29.20_Exhibit A - LCPA rev.docx.PDF.pdf

Received
7/29/20
Planning Dept.

From: Venegas, Denise@Coastal <Denise.Venegas@coastal.ca.gov>
Sent: Wednesday, July 29, 2020 11:23 AM
To: Bonnie Blue <bblue@malibucity.org>
Cc: Christensen, Deanna@Coastal <Deanna.Christensen@coastal.ca.gov>
Subject: RE: Planning Commission - Wed, July 29th Meeting Agenda & Notice of Availability of LCPA Materials - Short-Term Rentals

Hi Bonnie –

Thanks for providing us the opportunity to review and provide comments on the City's LCP Amendment for STRs. Please see the attached preliminary comments and edits to the City's draft STR ordinance. Please let me know if you have any questions.

Thanks,
Denise

Denise Venegas
Coastal Program Analyst
California Coastal Commission
South Central Coast District
89 South California Street, Suite 200
Ventura, CA 93001
Denise.Venegas@coastal.ca.gov | (805) 585-1800

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File

Date Received 7/29/20 Time 11:30 AM
Planning Commission meeting of 7/29/20
Agenda Item No. 1A
Total No. of Pages 8

EXHIBIT 5

EXHIBIT A

LOCAL COASTAL PROGRAM AMENDMENT

A. Land Use Plan (LUP) Chapter 5 (New Development), Section C (Land Use Policies), Subsection 2 (Land Use Designations) is hereby amended to read as follows:

RURAL RESIDENTIAL (RR): The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City. The following maximum residential density standards shall apply:

RR1	One dwelling unit per acre
RR2	One dwelling unit per 2 acres
RR5	One dwelling unit per 5 acres
RR10	One dwelling units per 10 acres
RR20	One dwelling unit per 20 acres
RR40	One dwelling unit per 40 acres

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MOBILE HOME RESIDENTIAL (MHR): The MHR designation is intended to accommodate existing mobile home parks and associated facilities. Hosted short-term rental use of single family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MULTI-FAMILY RESIDENTIAL (MF): The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted. Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City, up to a maximum of two dwelling units per parcel.

B. LUP Policy 5.20 is amended to read as follows:

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

C. LUP Policy 2.34 is amended to read as follows:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

D. Local Implementation Plan (LIP) Section 2.1 is amended by adding the following definitions, inserted in alphabetical order, or replacing where there is an existing definition:

DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is authorized by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and

B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and

C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling ~~unless permitted pursuant to a valid short-term rental permit issued by the City~~. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

Commented [CCC1]: It's not clear if the proposed language is meant to exempt the requirement for containing no kitchens or to not be rented or otherwise used as a separate dwelling.

We recommend these revisions to clarify the intent of the proposed amendment which is to allow guest houses to be used as STRs pursuant to a STR permit.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

E. LIP Section 3.3(Q) Planned Development (PD) Zone is amended to read as follows:

Q. Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development, consistent with the PD Land Use Designation in chapter 5 (Section C.2) of the Land Use Plan consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcel Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018, known as Malibu Coast Estate, and formerly known as the "Crummer Trust" parcel.

2. Permitted Uses

The uses and structures permitted in Malibu Coast Estate are as follows. Lot numbers are as identified on the "Malibu Coast Estate Planned Development Map 1" of this LIP.

a. Lot Nos. 1—5

i. One single-family residence per lot.
ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
iii. Domestic animals, kept as pets.
iv. Landscaping.
v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

…

F. LIP Section 13.4.9.1 is added to Chapter 13 (Coastal Development Permits):

13.4.9.1 Exemption for Short-term Rental of Residential Property

Short-term rental use of residential property as defined in Section 2.1 of this LIP and which meet all of the following criteria.

A. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.
B. The short-term rental use is conducted in a dwelling unit that was lawfully established as described in LIP Section 13.3(F).
C. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

Commented [CCC2]: Since short-term rental use of residential property is not a category of exemption but more of a use that is not considered development, we recommend moving this section outside of LIP Chapter 13.4 (Exemptions) and into another LIP Chapter.

G. LIP Table B – Permitted Uses is amended by inserting the following new permit type and uses:

LIP Table B – Permitted Uses

KEY TO TABLE (In addition to a coastal development permit, ~~the following~~ MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	**Permitted use**
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**

Commented [CCC3]: Not certified language. Needs to be updated to reflect certified LCP Amendment No. LCP-4-MAL-13-0241-1 (Affordable Housing/Reasonable Accommodations) as shown here. We also recommend adding STR here.

CUP	**Requires the approval of a Conditional Use Permit**
A	**Permitted only as an accessory use to an otherwise permitted use**
LFDC	**Requires the approval of a Large Family Day Care permit**
WTF	**Requires the approval of a Wireless Telecommunications Facility**
STR	**Use requires valid short-term rental permit approved by the City**
·	**Not permitted (Prohibited)**

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Single-family residential	P	P	P	P	·	·	·	·	·	·	·	·	·	**A**	·	·
Manufactured homes	P	P	P	P	·	·	·	·	·	·	·	·	·	·	·	·
Multiple-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments)	·	·	CUP	CUP	·	·	·	·	·	·	·	·	·	·	·	·
Second units	A[1]	A[1]	A[1]	A[1]	·	·	·	·	·	·	·	·	·	·	·	·
Mobile home parks	·	·	·	·	P	·	·	·	·	·	·	·	·	·	·	·
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	·	·	·	·	CUP	·	·	·	·	·	·	·	·	·	·	·
Mobile home as residence during construction	P	P	P	MCUP	·	·	·	·	·	·	·	·	·	·	·	·
Accessory uses (guest units, garages, barns, pool houses,	A[1]	A[1]	A[1]	A[1]	·	·	·	·	·	·	·	·	·	·	·	·

pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)																
Residential care facilities (serving 6 or fewer persons)	P	P	P	·	·	·	·	·	·	·	·	·	·	·	·	·
Small family day care (serving 6 or fewer persons)	A	A	A	·	·	·	·	·	·	·	·	·	·	·	·	·
USE	**RR**	**SF**	**MF**	**MFBF**	**MHR**	**CR**	**BPO**	**CN**	**CC**	**CV-1**	**CV-2**	**CG**	**OS**	**I**	**PRF**	**RVP**
RESIDENTIAL (continued)																
Large family day care (serving 7 to 12 persons)	LFDC	LFDC	LFDC	·	·	·	·	·	·	·	·	·	·	·	·	·
Home occupations	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	P/ MCUP[2]	·	·	·	·	·	·	·	·	·	·	·	·
Short-term rental	STR[21]	STR[21]	STR[22]	STR[22]	STR[21]	·	·	·	·	·	·	·	·	·	·	·
…																

Notes:
1. Subject to Residential Development Standards (Section 3.6).
2. Subject to Home Occupations Standards [(Section 3.6(O)].
3. Use Prohibited in Environmentally Sensitive Habitat Areas.
4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use. This floor area requirement shall not apply to the Civic Center Wastewater Treatment Facility.
5. CUP for veterinary hospitals.
6. Maximum interior occupancy of 125 persons.
7. If exceeding interior occupancy of 125 persons.
8. By hand only.
9. Use permitted only if available to general public.
10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
11. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Sections 4.6.2 and 6.5(G).
12. Limited to public agency use only (not for private use).
13. Accessory uses when part of an educational or non-profit (non-commercial) use. However, residential care facilities for the elderly are limited to operation by a non-profit only.
14. CUP for facilities within a side or rear yard when adjacent to a residentially-zoned parcel.
15. Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including, but not limited to, injection wells, generators, and pump stations.

7

16. This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with the existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.
17. Transitional and supportive housing is permitted in the same manner as one single family residence and is subject to all the restrictions that apply to single family residential uses.
18. Transitional and supportive housing is permitted in the same manner as a multi-family residential use and is subject to all the restrictions that apply to multi-family residential uses.
19. Multi-family development associated with an affordable housing development project is permitted by right.
20. Multi-family development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3.4.5.
21. Hosted short-term rental only in RR, SF and MHR zones
22. Maximum of two dwelling units per parcel for MF and MFBF zones

7

Patricia Salazar

Subject: FW: Check out this home I found on Zillow

From: City Council <citycouncil@malibucity.org>
Sent: Monday, September 21, 2020 4:21 PM
To: Kelsey Pettijohn <kpettijohn@malibucity.org>
Subject: Fw: Check out this home I found on Zillow

From: joey goodman <
Sent: Saturday, September 19, 2020 12:39 PM
To: City Council <citycouncil@malibucity.org>; Bonnie Blue <bblue@malibucity.org>; Douglas Cleavenger <dcleavenger@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>
Subject: Check out this home I found on Zillow

I found this home on the Zillow App and wanted to share it with you.

Address: 3942 Rambla Orienta, Malibu CA 90265
For Sale: $5,695,000
4 bds • 4 ba • 4,150 sqft

View this home on Zillow:
https://www.zillow.com/homedetails/3942-Rambla-Orienta-Malibu-CA-90265/65242446_zpid/?utm_campaign=iosappemail&utm_medium=referral&utm_source=emailshare

Download the free Zillow iOS app: http://zlw.re/ZillowiTunes
Download the free Zillow Android app: http://zlw.re/AndroidApp



Hello 👋

Could the posting for sale of this STR property be a possible response to upcoming STR enforcement ordinance? Time for non resident owners to rethink investment strategy.??

EXHIBIT 6

Portends of things to come?
Any thoughts?

Stay safe
Happy New Year

With gratitude

Joey Goodman

Sent from my iPhone

Patricia Salazar

Subject: FW: Incredulity

From: City Council <citycouncil@malibucity.org>
Sent: Thursday, September 17, 2020 4:11 PM
To: Kelsey Pettijohn <kpettijohn@malibucity.org>
Subject: Fw: Incredulity

From: joey goodman <
Sent: Wednesday, September 16, 2020 4:24 PM
To: City Council <citycouncil@malibucity.org>; Reva Feldman <rfeldman@malibucity.org>; Douglas Cleavenger <dcleavenger@malibucity.org>
Subject: Incredulity

Hello to all of you

They said it couldn't be done. This is the wrong approach and "don't trust them"

The owners have acted with malicious intent and without any consequences. Until now.

I apologize for my rude behavior on Monday evening, but I'm still compelled to express my thoughts about their attempt to intimidate me.

I appreciate Jefferson's opinion and understand his rationale of appropriate use of resources.

Do we actually have a demonstration of what a dedicated City Council can do to assist a neighborhood in need of assistance?

I'm biased, but I believe you have come to an adequate compromise.

Mr. Lustig and crew have their Hosted Ordinance, although not exactly as they would have liked it.
I know"we don't need no stinking Coastal Commission"

La Costa neighborhood is on the way to resuming a sense of quietude.
Something that was taken for granted is sometimes treasured more upon its return.

I choose to recognize your actions as an anguished act of kindness and consideration for your fellow Malibu residents.

Hopefully second reading goes well and all is codified.

Perhaps this action sends a message to the "hotel owners" that the pot days are about to end.

I got your back if you've got mine.

Please lie to me and tell me new City Council can't invalidate this ordinance. lol

With gratitude 🙏

Joey Goodman

Power to the people ✊

Sent from my iPhone

Patricia Salazar

Subject: FW: Short term rentals

From: Karen Farrer <kfarrer@malibucity.org>
Sent: Tuesday, September 22, 2020 6:03 PM
To: Heather Glaser <hglaser@malibucity.org>
Subject: Fwd: Short term rentals

Begin forwarded message:

From: carlamccloskey
Subject: Short term rentals
Date: September 22, 2020 at 5:38:02 PM PDT
To: "rmullen@malibucity.org" <rmullen@malibucity.org>, "speak@malibucity.org" <speak@malibucity.org>, "jwagner@malibucity.org" <jwagner@malibucity.org>, "kfarrer@malibucity.org" <kfarrer@malibucity.org>, "mpierson@malibucity.org" <mpierson@malibucity.org>
Reply-To: carlamccloskey

Thank you for taking action on short term rentals. I had a concern that hopefully can still be addressed. Homeowners can rent their homes for two months a year. This seems a bit excessive to me. Sometimes a number gets presented and it doesn't always get discussed, especially at such a late hour when much time has already been spent on an issue. I realize that the two months probably cannot be changed, but I'm wondering if some restrictions can be placed on it so the two months can't be spread out over the whole year. Correct me if I'm wrong, but it would seem with the 60 days rental a home could be rented for weekends over more than seven months. I would think that could be quite profitable and encouraging to have a home that is primarily a short term rental. Is it possible to still address this so the two months doesn't have unintended consequences? Perhaps you could limit it to 2 or 3 vacations a year. Thank you. Carla McCloskey

Patricia Salazar

Subject: FW: Re STR's – an unintended consequence

From: K Hill
Sent: Tuesday, September 15, 2020 4:33 PM
To: Rick Mullen <rmullen@malibucity.org>; Skylar Peak <speak@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Heather Glaser <hglaser@malibucity.org>
Subject: Re STR's – an unintended consequence

Dear Council members,

Thank you for your deliberations on STR's last night. As I said, I don't agree with all you did, but appreciate that you drilled into the numerous sub-issues with some finesse.

One possible unintended consequence to consider. In allowing the Designated Operator (DO) exception for a "cumulative" two months of the year, you were talking about people who might go on vacation a few times a year, for a few weeks or a month each (the Drummond pitch). Your intent was to carve out a limited exception, but you actually allowed quite a bit. To say "cumulative" would give an owner ANY 60 nights to employ a DO. That's pretty close to allowing a DO as often as owner might want, because many rentals probably go for 2-3 nights per week, for long "getaway" weekends. With 60 nights to play with, an owner could serve those same 2-3 night rentals throughout much or all of the high season, e.g., over four months, 60 nights is an average of 3.5 nights per week. Or, over six months (26 weeks), 60 nights is still more than 2 nights per week.

The solution, to preserve your intent, might be to limit those 60 days to a maximum of, say, three separate blocks. So you could do 1 vacation of 60 days, or up to 3 vacations totaling 60 days (e.g., 2 three-week vacations plus 1 eighteen-day vacation).

Perhaps one or a couple of you could make this clarification of your intent to staff and get them to write a clause into the draft for second reading, so as not to delay the process. I believe there must be some legal language somewhere that allows minor revisions to be made by staff between first and second reading. As precedent, I recall catching a similar unintended effect in the Dark Sky ordinance; in that instance, a Council member passed my comment to staff and they did correct it in time to bring it as part of the second reading.

Best,
Kraig

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, October 26, 2020, at 6:30 p.m.** on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order (revised September 4, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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 citycouncil@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 by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003 and ZONING TEXT AMENDMENT NO. 19-005– On July 29, 2020, the Planning Commisison considered an amendment to the Local Coastal Program (LCPA) and to Title 17 (Zoning) of the Malibu Municipal Code, specifically LCPA No. 19-003 and ZTA No. 19-005, regulating the rental of residential units for 30 days or less (short-term rentals) which included, but was not limited to, amendments similar to those implemented in the City of Santa Monica including requiring the presence of an onsite host during short-term rentals, other restrictions, finding the item exempt from CEQA, clarifying permitted uses related to the short-term rental of residential property, and implementing penalties for violations. These amendments are now being referred to as the "Hosted Ordinance."

On September 14, 2020, the City Council held a public hearing to consider LCPA No. 19-003/ZTA No. 19-005, and the Planning Commission's recommendations thereon. The City Council requested changes be made and that the items be brought back for hearing at a future date.

Pursuant to this direction, a public hearing will be held by the City Council on October 26, 2020, on LCPA No. 19-003/ZTA No. 19-005, to consider the above described matter and the changes thereto proposed by the City Council on September 14, 2020.

EXHIBIT 7

The City's STR webpage has the full background and latest information on this topic: https://www.malibucity.org/str.

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Justine Kendall, Associate Planner (310) 456-2489, extension 301

The draft ordinances were assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft ordinances are exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained therein would not have the potential for causing a significant effect on the environment.

A written staff report will be available at or before the hearing. All persons wishing to address the City Council will be afforded an opportunity in accordance with the Council's procedures. Information about the draft ordinance and previous public meetings can be found on the City's website at malibucity.org/STR.

Copies of all related documents can be reviewed by any interested person by contacting the Case Planner during regular business hours. Oral and written comments may be presented to the City Council on, or before, the date of the meeting.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, AT OR PRIOR TO THE PUBLIC HEARING.

If there are any questions regarding this notice, please contact Justine Kendall, at (310) 456-2489, extension 301.

_____

Bonnie Blue, Planning Director

Publish Date: October 1, 2020

RECEIVED
Oct 26 2020
CITY CLERKS OFFICE
CITY OF MALIBU

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/26/2020
Agenda Item # 4A

October 26, 2020

Re: Item 4A -- Opposition to Short-Term Rental Regulations - Hosted Short-Term Rental Ordinance and Local Coastal Program Amendment

Dear Honorable Mayor and Councilmembers:

In short, I strongly oppose the above-referenced ordinance in its current form. The newly modified Hosted Ordinance unfairly discriminates against three and four unit multifamily properties. Further, with an election on November 3rd, this Council should delay the vote on this ordinance and defer to the newly elected Council in order to give Malibu constituents more influence on the outcome.

During the City Council Hearing of September 14, 2020, it became clear that the goal of the majority of the Council is to reduce the number of multifamily STRs as much as possible without considering equal treatment of all multifamily properties and their owners. Regarding the question of whether triplexes and fourplexes should be permitted a maximum of one or two STRs, Councilmember Peak said, "...for me, it comes back to how many of those [3-unit and 4-unit multifamily buildings] are in the City..."

Councilmember Peak asked the City Manager, Bonnie Blue to provide the number of three and four unit buildings in Malibu. She cited data from the County Assessor that 3-unit and 4-unit buildings combined comprise 50% of Malibu's 473 apartment units. Councilmember Peak went on to say, "So we have more 4-plexes than we have triplexes...I would be less inclined to then allow the two [STRs] for the four [unit buildings] and I would go with one [STR] for four [unit buildings] and specifically for the housing argument I just made."

By basing the maximum number of STRs a multifamily building can have on how many of that building type exists in the City is completely arbitrary and an inequitable method to regulate multifamily properties. The majority of the Council tailored the ordinance to reduce the number of STRs in 3-unit and 4-unit buildings because they knew those two building types comprise half of the apartment units in Malibu. There is no rational basis for treating all multifamily properties consisting of five or more units equally (two STRs) while at the same time treating 3-unit and 4-unit buildings differently (only one STR). All multifamily properties should be treated equally and be allowed two STRs as drafted by your staff in the last version of this ordinance.

There is a 6-unit building at 22852 PCH. According to the Tax Assessor, it is 5,152 s.f. and consists of eight bedrooms and 10 bathrooms. My 3-unit building on Malibu Rd. is 6,046 s.f. and consists of nine bedrooms and 11 bathrooms. Despite my property being larger and consisting of more bedrooms and bathrooms, under the proposed ordinance it will only be allowed one STR while the other smaller building will be allowed two STRs. There is no rational basis for making this distinction between these two properties.

The 6-unit building described above consists mostly of 1-bedroom apartments. Most three and four unit buildings like mine consist of fewer total units, but larger individual unit configurations. The square footage is divided among fewer apartments -- hence more bedrooms per apartment. If the goal is to protect housing for Malibu's frontline workers, 1-bedroom apartments should be targeted for long-term rental preservation as they are inherently more affordable than the larger apartment configurations found

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in three and four unit buildings.

Councilmember Peak also said, "...I recently helped somebody look for renting a property in and around our area and the least expensive one they could find was $7,000/month." However, on Wednesday, October 21, 2020, there were 22 Malibu rental listings on Zillow between $2,650/month and $6,075/month with 10 of those listings under $4,000/month. Where is Councilmember Peak getting this information?

In addition, for the 12 month period ending on October 23, 2020, the Multiple Listing Service has records of 401 lease transactions in Malibu with 59 of these at rental rates between $2,100-$3,995/month. In 2007, prior to Airbnb's existence, there were 353 lease transactions and compared to the most recent 12 months, the median rent only rose a total of 22.6%. That's an average increase of 1.73% per year over the last 13 years. I have attached MLS summary reports that provide support for these statistics. The fact is, housing in Malibu has been expensive far longer than Airbnb, VRBO, etc. have been in existence. And based on how little the median rent has risen over the last 13 years, coupled with an increased volume of long-term lease transactions, it is clear that STRs have had little effect on the rental housing market in Malibu.

A few reasons why STRs are best suited in multifamily properties:

-Families with children rarely rent apartments in Malibu

-There is no record of any multifamily property generating repeated neighbor complaints

-Most people who rent apartments long-term move regularly; multifamily zones are inherently transient

In closing, STRs have been a Malibu tradition for decades. Given how controversial this issue is to Malibu's constituents, the current City Council should not vote on this ordinance and defer to the newly elected City Council. This has been an ongoing debate for four years and the election is only nine days away. The voters have the right to expect the three soon-to-be elected Councilmembers will have the opportunity to modify this ordinance before it goes to the Coastal Commission for their review.

Sincerely

Andrew Gombiner

[redacted]

Listings as of 10/23/2020 at 1:21 PM

Andrew Gombiner

GOMBINER & COMPANY
458 N. Doheny Dr., Ste. 393, West Hollywood, CA 90069
Telephone: 323-656-1912 Facsimile: 323-654-7201 Direct: 310-770-4575

Status: Sold**StatusDate:** Sold Wed Oct 23 2019 00:00:00 GMT-0700 (Pacific Daylight Time)-Fri Oct 23 2020 13:19:32 GMT-0700 (Pacific Daylight Time) **PropertTypes:** Lease **Area:** Malibu Beach,Malibu

	Active	Active-Contract	Hold	Pending	Sold LP	Sold SP **	Expired	Canceled	Withdrawn
# of Listings	--	--	--	--	401	401	--	--	--
Average DOM	--	--	--	--	55	55	--	--	--
Median DOM	--	--	--	--	28	28	--	--	--
Low Price $	--	--	--	--	$2,100	$2,100	--	--	--
Median Price $	--	--	--	--	$8,000	$8,000	--	--	--
High Price $	--	--	--	--	$325,000	$325,000	--	--	--
Average Price Total $	--	--	--	--	$19,735	$20,479	--	--	--
***Avg. Price w/ Sq.Ft. $**	--	--	--	--	$19,074	$19,869	--	--	--
***Average Sq. Ft.**	--	--	--	--	2,292	2,292	--	--	--
***Avg. Price/Sq.Ft. $**	--	--	--	--	$7.17	$7.40	--	--	--
***Median Price/Sq.Ft.$**	--	--	--	--	$4	$4	--	--	--
****Avg. Price w/ LSZ $**	--	--	--	--	$19,887	$20,639	--	--	--
****Average LSZ**	--	--	--	--	80,324.96	80,324.96	--	--	--
****Median LSZ**	--	--	--	--	19,433	19,517	--	--	--
****Avg. Price/LSZ $**	--	--	--	--	$1.90	$1.99	--	--	--
Avg. SP/Avg. LP	--	--	--	--	--	103.77%	--	--	--
Avg. SP/Avg. OLP	--	--	--	--	--	48.00%	--	--	--
Total Volume	--	--	--	--	$7,914,035	$8,212,412	--	--	--

DOM and Average % of List Price received on Solds Statistics

Statistic	0-30 Days	31-60 Days	61-90 Days	91-120 Days	120+ Days
No. of Listings	205	78	52	23	43
Breakdown %	51.12	19.45	12.97	5.74	10.72
Avg SP%LP	101.46	101.08	102.05	100.82	103.64

* Square footage calculations do not include those listings with a reported square footage of zero (32 such listing(s) were found). The ***Avg. Price/Sq.Ft.*** is the sum of Price/Sq.Ft. for all valid listings divided by the number of listings without a Sq.Ft. of zero.

** All calculations in the "Sold (Sold Price)" column, except ***Avg. SP/Avg. LP*** and ***Avg. SP/Avg.OLP***, do not include those Sold listings with either a reported square footage of zero or a reported Selling Price of zero (32 such listing(s) were found) or a reported lot size of zero (4 such listing(s) were found).

*** Lot size calculations do not include those listings with a reported lot size of zero (4 such listing(s) were found). The ***Avg. Price/LSZ*** is the sum of Price/LSZ. for all valid listings divided by the number of listings without a Lot Size of zero.

NOTICE: Due to COVID-19, DOM was frozen and not recorded in the history from March 15, 2020 to July 5, 2020.

Broker/Agent does not guarantee the accuracy of the square footage, lot size or other information concerning the conditions or features of the property provided by the seller or obtained from Public Records or other sources. Buyer is advised to independently verify the accuracy of all information through personal inspection and with appropriate professionals. The property may have video/surveillance devices. VESTA*PLUS*™ Copyright © 2020 by TheMLS™. Information deemed reliable but not guaranteed. **Presented by:** Andrew Gombiner **CALDRE#:**01197325 | DMCA

Listings as of 10/23/2020 at 1:21 PM

Andrew Gombiner

GOMBINER & COMPANY

458 N. Doheny Dr., Ste. 393, West Hollywood, CA 90069

Telephone: 323-656-1912 Facsimile: 323-654-7201 Direct: 310-770-4575

Status: Sold**StatusDate:** Sold Mon Jan 01 2007 00:00:00 GMT-0800 (Pacific Standard Time)-Mon Dec 31 2007 00:00:00 GMT-0800 (Pacific Standard Time) **PropertTypes:** Lease **Area:** Malibu Beach,Malibu

	Active	Active-Contract	Hold	Pending	Sold LP	Sold SP **	Expired	Canceled	Withdrawn
# of Listings	--	--	--	--	353	353	--	--	--
Average DOM	--	--	--	--	100	100	--	--	--
Median DOM	--	--	--	--	60	60	--	--	--
Low Price $	--	--	--	--	$1,200	$1,200	--	--	--
Median Price $	--	--	--	--	$6,525	$6,550	--	--	--
High Price $	--	--	--	--	$85,000	$85,000	--	--	--
Average Price Total $	--	--	--	--	$10,755	$11,023	--	--	--
***Avg. Price w/ Sq.Ft. $**	--	--	--	--	$11,208	$11,535	--	--	--
***Average Sq. Ft.**	--	--	--	--	2,237	2,237	--	--	--
***Avg. Price/Sq.Ft. $**	--	--	--	--	$4.84	$5.05	--	--	--
***Median Price/Sq.Ft.$**	--	--	--	--	$3	$3	--	--	--
****Avg. Price w/ LSZ $**	--	--	--	--	$11,080	$11,367	--	--	--
****Average LSZ**	--	--	--	--	20,933.10	20,933.10	--	--	--
****Median LSZ**	--	--	--	--	5,798	6,477	--	--	--
****Avg. Price/LSZ $**	--	--	--	--	$1.58	$1.61	--	--	--
Avg. SP/Avg. LP	--	--	--	--	--	102.49%	--	--	--
Avg. SP/Avg. OLP	--	--	--	--	--	98.00%	--	--	--
Total Volume	--	--	--	--	$3,796,548	$3,891,181	--	--	--

DOM and Average % of List Price received on Solds Statistics

Statistic	0-30 Days	31-60 Days	61-90 Days	91-120 Days	120+ Days
No. of Listings	109	70	52	34	88
Breakdown %	30.88	19.83	14.73	9.63	24.93
Avg SP%LP	99.61	113.63	101.26	98.88	102.60

* Square footage calculations do not include those listings with a reported square footage of zero (54 such listing(s) were found). The ***Avg. Price/Sq.Ft.*** is the sum of Price/Sq.Ft. for all valid listings divided by the number of listings without a Sq.Ft. of zero.

** All calculations in the "Sold (Sold Price)" column, except ***Avg. SP/Avg. LP*** and ***Avg. SP/Avg.OLP***, do not include those Sold listings with either a reported square footage of zero or a reported Selling Price of zero (54 such listing(s) were found) or a reported lot size of zero (19 such listing(s) were found).

*** Lot size calculations do not include those listings with a reported lot size of zero (19 such listing(s) were found). The ***Avg. Price/LSZ*** is the sum of Price/LSZ. for all valid listings divided by the number of listings without a Lot Size of zero.

NOTICE: Due to COVID-19, DOM was frozen and not recorded in the history from March 15, 2020 to July 5, 2020.

Broker/Agent does not guarantee the accuracy of the square footage, lot size or other information concerning the conditions or features of the property provided by the seller or obtained from Public Records or other sources. Buyer is advised to independently verify the accuracy of all information through personal inspection and with appropriate professionals. The property may have video/surveillance devices. VESTA*PLUS*™ Copyright © 2020 by TheMLS™. Information deemed reliable but not guaranteed. **Presented by:** Andrew Gombiner **CALDRE#:**01197325 | DMCA

Kelsey Pettijohn



Subject: How to sign up for STR

From: bj pike [redacted]
Sent: Tuesday, October 20, 2020 9:36 AM
To: City Council <citycouncil@malibucity.org>
Subject: How to sign up for STR

I have a voter's registration , a deed with my name and a utility bill. I don"t want to use a drivers licence because I feel I have a right to garage my car in town at my workplace for bundling and rates. Please advise if my other documents mentioned above will suffice.

Also I have another concern about the number of guests. Two parents prefer to have babies and young children in their same room when vacationing so it is the natural thing to do and I hope the committee will see the logic in that and fix the wording to accommodate this.

In addition we have a sofa bed in the living room and a bathroom that does not require the person who sleeps in the sofa bed to walk through another room. Could the committee rethink the number of guests based on square footage of the beach house to not be so restrictive for a natural size family. Even Hotels use sofa beds.

Sincerely,

Bettijane Stuppy Pike

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/26/20
Agenda Item # 4A

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/26/20 Agenda File

Kelsey Pettijohn

Subject: Short Term Rental ordinance - Hearing 10/26/2020; Agenda item 4A

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/26/20
Agenda Item # 4A

RECEIVED
Oct 20 2020
CITY CLERKS OFFICE
CITY OF MALIBU

From: Bill Sampson [redacted]
Sent: Tuesday, October 20, 2020 1:05 PM
To: City Council <citycouncil@malibucity.org>
Cc: Rosemary Sampson [redacted] Steve Uhring [redacted]; John Mazza [redacted]
Subject: Short Term Rental ordinance - Hearing 10/26/2020; Agenda item 4A

Please consider the following our opposition to adoption of ordinance no. 472:

Ordinance No. 472 Analysis

Section 1. Recitals

A. This recital states in part that: " . . . the City of Malibu allows residential property to be rented on a short term basis for periods of 30 days or less . . ." This recital is false. Title 17 of the Malibu Municipal Code does NOT and never has listed such a use as one of those permitted in single family residences. Staff has presented to the council a false foundation upon which to build an unneeded and harmful ordinance turning neighborhoods into collections of motels.

D. This recital states in part: "Code enforcement efforts to enforce the Malibu Municipal Code (MMC) have been resisted and challenged by operators." This recital is false. Code Enforcement has never been attempted against the currently prohibition against the use of single family homes as motels. Again, staff is presenting a false foundation to justify an illegal activity.

The recitals prior to an ordinance are customarily made to explain why an ordinance is necessary or beneficial. Instead, the two recitals above furnish a completely false narrative intended only to deflect attention from the failure of the City Council, as a body, for years, to uphold their oaths of office and the failure of staff to perform its delegated enforcement functions.

Modification needed for Section 17.55.020 (D)(1) [Application contents.]
The draft requires the short term rental applicant to attest that "short term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that owner has

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notified such association that the property owner is applying for a short-term rental permit."
There are some properties in Malibu where CC&Rs exist where there is no homeowners association. The owner should be required to notify the owner of every property in whose favor CC&Rs exist that the permit-seeking owner has notified the owners of such benefitted properties of the permit application. We are sure that the City Attorney can craft appropriate language to make sure that all affected property owners are notified when a permittee affected by CC&Rs submits an application.

Modification needed for Section 17.55.020 (F). [Notice]
This section provides for notice of the permit to property owners within 500 feet. This ordinance permits commercialization of residential neighborhoods in contravention of Malibu's long existing way of life. Due to the unprecedented intrusion sought the distance should be extended to 2000 feet. Further, property owners within 2000 feet should be given notice of the application before it is granted.

Modification needed for Section 17.55.070. [Appeals]
This section furnishes the motel operator a right of appeal of denial of an application. Any property owner within 2000 feet of the property sought to be operated as a short term rental [motel] should have a concomitant right to appeal a granting of such an application.

Modification to Section 7. Zoning Text Amendments, labeled both page 35 and page 88
The findings proposed to be made are bogus. The ordinance does nothing to concentrate commercial uses in certain areas. The ordinance does exactly the opposite and spreads these commercial operations to every residential neighborhood in the city. How can any conscientious council member with even a scintilla of integrity sign such a statement?
Likewise there is a finding that hotels are regulated to ensure devlopment comptible with a rural residential community. Signing off on such a statement is simply put a lie. Instead you will be determining to spread hotels throughout our rural residential community if you pass this ordinance.
There is then a finding that the ZTA protects and preserves the unique character of the City's distinct neighborhoods - again, an outright lie. Ok, call it doublespeak instead.

Passage of this ordinance, as well as the abomination passed last month, is a total refusal of those voting in favor to honor their oaths and to honor Malibu. We used to sincerely believe that at least a couple of you were better than this.

Bill and Rosemary Sampson
[redacted]

Kelsey Pettijohn

Subject: Item 4A on 10/26/2020 agenda
Attachments: Johnston v. City of Hermosa Beach, B278424 _ Casetext.pdf

RECEIVED
Oct 21 2020
CITY CLERKS OFFICE
CITY OF MALIBU

From: Bill Sampson [redacted]
Sent: Wednesday, October 21, 2020 10:14 AM
To: City Council <citycouncil@malibucity.org>
Cc: Bruce Silverstein [redacted] Steve Uhring [redacted]
Subject: Item 4A on 10/26/2020 agenda

You folks should probably discuss with our lawyer her successful sustaining on appeal of the Hermosa Beach ordinance prohibiting short term rentals. Ms. Hogin is listed as attorney for that city in the opinion. Have you ever asked her about it? Has she shared the legal opinions stated in her briefs in that case? Has she told you about the case? Why would you ignore sucessful litigation, the outcome of which protects our city and helps all of us honor our Mission and Vision Statements?

This case was located using a legal search engine. It searched the following sentence: "All uses not permitted in zoning codes are prohibited." You may be familiar with that proposition since that has been our point for the six or so years that the council has ignored Title 17 of our zoning code. All you need do is enforce existing law rather than proceed with the cockamamie scheme thought up by staffers.

Johnston v Hermosa - copy of opinion attached

Bill and Rosemary Sampson

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/26/20
Agenda Item # 4A

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/26/20 Agenda File

casetext CARA A.I. Search millions of legal authorities... JX

Johnston v. City of Hermosa Beach Copy Cite

Read Analyses 0 Briefs 0 Citing Cases 0

Johnston v. City of Hermosa Beach

COURT OF APPEAL OF THE STATE OF CALIFORNIA SECOND APPELLATE DISTRICT DIVISION FIVE Jan 17, 2018

B278424 (Cal. Ct. App. Jan. 17, 2018)

B278424

01-17-2018

JANINE JOHNSTON et al., Plaintiffs and Appellants, v. CITY OF HERMOSA BEACH, Defendant and Respondent.

Freilich & Popowitz, Robert H. Freilich and Neil M. Popowitz for Plaintiffs and Appellants. Jenkins & Hogin, Michael Jenkins, Christi Hogin, and Patrick Donegan for Defendant and Respondent.

DUNNING, J.

ORDER MODIFYING OPINION NO CHANGE IN JUDGMENT THE COURT:

The opinion filed in the above-entitled matter on January 17, 2017, is ordered MODIFIED as follows:

1. On page 10, the last sentence of the first full paragraph is deleted and replaced with the following sentence:

> In any event, there is no suggestion in the record that the Coastal Commission has designated Hermosa Beach's coastal zone as a sensitive coastal resource area. (§§ 30502, 30116.)

2 *2

2. On page 10, the first sentence of the second full paragraph is deleted and replaced with the following sentence:

> Plaintiffs conceded in the trial court—and make no contrary argument here—that the Ordinance does not constitute a "development" requiring a CDP.

These modifications do not change the judgment. /s/_____
KRIEGLER, Acting P. J. /s/_____
BAKER, J. /s/_____
3 DUNNING, J.* *3

* Judge of the Orange Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

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Hogue, Judge. Affirmed. Freilich & Popowitz, Robert H. Freilich and Neil M. Popowitz for Plaintiffs and Appellants. Jenkins & Hogin, Michael Jenkins, Christi Hogin, and Patrick
4 Donegan for Defendant and Respondent. *4

The City of Hermosa Beach (the City) enacted an ordinance expressly prohibiting short term vacation rentals (STVR's) in areas zoned for residential housing. Because some residential areas are located in the "coastal zone," plaintiffs contend the California Coastal Act of 1976[1] (Coastal Act) preempts the ordinance. Plaintiffs challenge the trial court's denial of the request for a preliminary injunction. They also argue the trial court's application of the "balance of harm test" failed to recognize plaintiffs' status as private attorneys general representing the state's interest in effectuating the mandates of the Coastal Act. We affirm.

1 Public Resources Code section 30000 et seq. All statutory references are to the Coastal Act contained in the Public Resources Code unless otherwise noted.

FACTUAL AND PROCEDURAL BACKGROUND

Internet booking resources have contributed to a proliferation of STVR's in recent years, particularly in areas that traditionally draw vacationers and tourists. In response to this growing trend—as well as an increase in complaints from neighbors—the City enacted Ordinance No. 16-1635 (the Ordinance) on May 24, 2016. The Ordinance provides:

> **Short term rentals prohibited.**
> It shall be unlawful for any person to offer or make available for rent or to 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 for less than thirty

5 *5

> [30] consecutive days. It shall be unlawful for any person to occupy a residential dwelling, a dwelling unit or a room in a dwelling for less than thirty [30] consecutive days pursuant to a rental agreement, lease, license or any other means, whether oral or written, for compensation or consideration."

The Ordinance adds seven different sections to the Hermosa Beach Municipal Code (HBMC), each using the language reproduced above. The STVR prohibition accordingly applies in all residential zones, which include single family, two-family, multiple family, mobilehome and residential/professional dwellings. Additionally, the Ordinance added HBMC section 17.42.180, prohibiting advertising of STVR's.

HBMC section 17.040 provides an alphabetical list of definitions for words and phrases used in the City's ordinances. For context in this appeal, the following definitions are helpful:

1. "'Advertisement' means any printed or lettered announcement, whether in a magazine, newspaper, handbill, notice, display, billboard, poster, email, internet website o application, or any other form."[2]

2 This definition was enacted as part of the challenged Ordinance.

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cooking facilities, and "6 possessing the character of a relatively permanent single bona fide housekeeping unit in a domestic bond of social, economic and psychological commitment to each other, as distinguished from a group occupying a boarding house, club, dormitory, fraternity, hotel, lodging house, motel, rehabilitation center, rest home or sorority."

4. "Transient" is defined as the rental of living space "by reason of concession, permit, right of access, license or other agreement, for a period of thirty (30) consecutive calendar days or less."

The pros and cons of permitting STVR's in residential zones were debated in the City government for a number of years before passage of the Ordinance. Before enactment of the Ordinance, STVR's were not expressly permitted in areas zoned as residential. Residential zoning is the most restrictive, and uses not expressly permitted are prohibited.

Plaintiffs petitioned the superior court to enjoin enforcement of the Ordinance. Plaintiffs' ex parte application for a temporary restraining order was denied. The trial court proceeded with a hearing on plaintiffs' request for a preliminary injunction.

Plaintiffs argued the ordinance was unconstitutional because it (1) violated the Coastal Act; (2) banned commercial speech (i.e., advertising residences for STVR use); and (3) deprived them of a vested right to use their properties for nonconforming commercial purposes in a residential zone and generate income.

The trial court engaged in a two-part analysis and denied the request for a preliminary
7 injunction. It issued an amended written order on October 17, 2016. The trial court first *7 determined plaintiffs did not establish a probability of prevailing on the merits of any of their theories, specifically finding:

1. The Ordinance does not violate the Coastal Act and does not constitute a "development" as that word is used in the Coastal Act, which would require a coastal development permit (CDP).

2. Plaintiffs' constitutional right to free speech was not implicated because "the First Amendment does not protect commercial speech advertising illegal activity," citing *Central Hudson Gas & Elec. Corp. v. Public Service Commission of New York* (1980) 447 U.S. 557, 562-564.)

3. Plaintiffs had no constitutionally protected vested rights because the pre-Ordinance use of their properties as STVR's was not legal or permitted.

The trial court recognized plaintiffs' failure to establish the first prong of the analysis—the likelihood of success on the merits—meant it was not necessary to balance the respective harm to the parties should the preliminary injunction be denied. Nevertheless, the court engaged in that weighing process and determined "the City's interest in regulating STVR's and mitigating these impacts outweighs [plaintiffs'] interest in receiving rental income during the pendency of this lawsuit."

Plaintiffs timely appealed and sought a writ of supersedeas to stay enforcement of the Ordinance pending resolution of this appeal. We denied the request for an immediate stay. Plaintiffs renewed the request, and we again denied it.

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Not one of the documents in these requests was presented to the trial court. Several documents predated the hearing on plaintiffs' request for a preliminary injunction; others came into existence after the trial court denied the request for a preliminary injunction. (*Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 444, fn. 3 ["[r]eviewing courts generally do not take judicial notice of evidence not presented to the trial court"].)

The requests do not include any documents we are statutorily required to judicially notice. (Evid. Code, § 451.) To the extent the requests concern documents that may be judicially noticed, this court declines to exercise its discretion to do so as plaintiffs have not provided the court with sufficient information to determine their relevance. (Evid. Code, §§ 452, 453; *C.R. v. Tenet Healthcare Corp.* (2009) 169 Cal.App.4th 1094, 1103 ["the truth of statements may be accepted when made by a party but not those of third parties or an opponent"]; *Love v. Wolf* (1964) 226 Cal.App.2d 378, 403 ["While courts take judicial notice of public records, we do not take judicial notice of the truth of all matters stated therein. [Citation.] And the official character of a document will not make otherwise inadmissible material therein admissible"].)

DISCUSSION

A. Standard of Review

"[A]s a general matter, the question whether a preliminary injunction should be granted involves two interrelated factors: (1) the likelihood that the plaintiff will prevail on the
9 merits, and *9 (2) the relative balance of harms that is likely to result from the granting or denial of interim injunctive relief." (*White v. Davis* (2003) 30 Cal.4th 528, 554.) In this case, the first prong—the likelihood plaintiffs will prevail on the merits—depends on legal issues—the interpretation of a municipal ordinance and state statute. Accordingly, our review of that question is de novo. (*People ex rel. Feuer v. Nestdrop, LLC* (2016) 245 Cal.App.4th 664, 672.)

Once the de novo review of the first prong is accomplished, this court turns to the second prong to determine whether the trial court abused its discretion in balancing the harm caused by the denial of interim injunctive relief. (*Cohen v. Board of Supervisors* (1985) 40 Cal.3d 277, 286.)

B. The Coastal Act

As the trial court noted in its ruling, "the Coastal Act . . . is the legislative continuation of the coastal protection efforts commenced when the People passed Proposition 20, the 1972 initiative that created the Coastal Commission. (See *Ibarra v. California Coastal Comm.* (1986) 182 Cal.App.3d 687, 693.) . . . The Supreme Court described the [Coastal] Act as a comprehensive scheme to govern land use planning for the entire coastal zone of California. (*Yost v. Thomas* (1984) 36 Cal.3d 561, 565.) The [Coastal] Act must be liberally construed to accomplish its purposes and objectives. [§ 30009.] [¶] . . . The supremacy of these statewide policies over local, parochial concerns is a primary purpose of the [Costal] Act, and the Coastal Commission is therefore given the ultimate authority under the [Coastal]
10 Act and its interpretation. [Citation]." *10

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policies of, this division at the local level." The phrase "implementing actions" is defined in section 30108.4 as "the ordinances, regulations, or programs which implement either the provisions of the certified [LCP] or the policies of this division and which are submitted pursuant to Section 30502." Section 30502 concerns "designate[d] sensitive coastal resource areas within the coastal zone." The LCP is effective once the Coastal Commission certifies it. (§ 30500 et seq.)

[3] For reasons not explained in the record, the City did not have a certified LCP at the time of the preliminary injunction hearing.

All "development" in the "coastal zone" of a city requires a "coastal development permit." (§ 30600.) Once the Coastal Commission has certified a city's LCP, the city approves CDP applications. (§ 30519, subd. (a).) Until certification of the LCP, a city may adopt procedures and approve CDP applications or the applicant may seek approval from the Coastal Commission. (§ 30600.)

Chapter 3 of the Coastal Act provides, "the policies of this chapter shall constitute the standards by which the adequacy of [LCP's], as provided in Chapter 6 (commencing with Section 30500), and the permissibility of proposed developments subject to the provisions
11 of this division are determined." (§ 30200, subd. *11 (a).) Chapter 3 includes section 30213, which provides in part, "Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred."[4] It also includes section 30222: "The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry."

[4] There is no evidence in the record that any of the Hermosa Beach short-term residential accommodations are "lower cost."

C. Issues on Appeal

In this court, plaintiffs have not pursued the free speech or vested rights claims. (*Ewing v. City of Carmel-By-The-Sea* (1991) 234 Cal.App.3d 1579.) Rather than reprise their trial court argument that the Ordinance violates the Coastal Act, they recast it and assert the Coastal Act preempts the Ordinance. We disagree.

1. The Coastal Act Does Not Preempt the Ordinance

We review the preemption issue de novo. Plaintiffs have the burden to establish the Ordinance is preempted. (*Big Creek Lumber Co. v. County of Santa Cruz* (2006) 38 Cal.4th 1139, 1149.) But they have not demonstrated it is likely they will succeed on the merits of the preemption claim.

A city "may make and enforce within its limits all local, police, sanitary, and other
12 ordinances and regulations not in *12 conflict with general laws." (Cal. Const., art. XI, § 7.) A city's power to enact zoning ordinances "in accordance with local conditions is well entrenched." (*IT Corp. v. Solano County Bd. of Supervisors* (1991) 1 Cal.4th 81, 89.)

casetext CARA A.I. Search millions of legal authorities... JX BS

30502.)

Plaintiffs conceded in the trial court—and make no contrary argument here—that the Ordinance does not constitute a CDP. The Ordinance was enacted pursuant to the City's police power and did not fall under the auspices of the Coastal Commission. The absence of a certified LCP did not eliminate the City's ability to enact and amend zoning ordinances.

Plaintiffs' reliance on sections 30213 ("lower cost visitor and recreational facilities") and 30222 ("use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation") is unavailing. Those provisions set forth standards by which the adequacy of an LCP is determined. As noted, by the time of the hearing on the request for a preliminary injunction, the City had not prepared a proposed LCP. There is no authority applying these provisions to zoning ordinances enacted pursuant to a city's police powers.

As discussed earlier in this opinion, plaintiffs also argue various "actions of the Coastal
13 Commission make clear that the *13 ban on STVR's within the Coastal Zone is an unconstitutional violation of the Coastal Act." They rely primarily on documents—a number of which were Coastal Commission staff reports—this court has declined to judicially notice. Moreover, the Coastal Commission did not seek leave to intervene in the trial court, nor did it seek to submit an amicus brief in this court.

2. Balancing of Harm

Plaintiffs also fault the trial court for failing "to address the true balance of harm—between the City and the State of California—with regard to the protection of coastal zone resources." Plaintiffs raise this issue for the first time on appeal and thus failed to preserve it in the trial court for our review.

In the trial court, plaintiffs conceded their short-term rental businesses were nonconforming uses in a residential zone, and they sought to balance the harm between their economic interests and the City's exercise of its police power. We apply the abuse of discretion standard to this aspect of the trial court's ruling.

Before the Ordinance was passed, two individuals (Johnston and Malone) rented their homes as STVR's and earned more than $70,000 each year since 2012. Income to plaintiff Rhodes, who only rented a room in her home, ranged from $31,000 to $45,000 per year since 2012. Their declarations asserted "irreparable harm, financial and non-financial, from the loss of short term rental income," which deprived them of vested rights. Besides focusing on loss of income, the plaintiffs' declarations also noted their short term tenants had not engaged in conduct that generated complaints to the City. The declarations did not
14 address whether their short term rentals *14 provided low or lower cost lodging alternatives, and on the record presented at this stage of the proceedings, the balance of harm tips
15 decidedly in the City's favor. *15

DISPOSITION

The judgment is affirmed. Defendant is awarded its costs on appeal.

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Kelsey Pettijohn

Subject: Public Comment for City Council Meeting of November 5, 2020

FILED
City of Malibu
Office of the City Clerk
Meeting Date 11/5/20
Agenda Item # 4A

RECEIVED
Nov 05 2020
CITY CLERKS OFFICE
CITY OF MALIBU

From: Bruce Silverstein [redacted]
Sent: Thursday, November 5, 2020 2:46 PM
To: Mikke Pierson <mpierson@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Rick Mullen <rmullen@malibucity.org>
Cc: Heather Glaser <hglaser@malibucity.org>; Christi Hogin - Office <christi.hogin@bbklaw.com>; Reva Feldman <rfeldman@malibucity.org>
Subject: Public Comment for City Council Meeting of November 5, 2020

Members of City Council:

I am writing about the proposed ordinance dealing with Short Term Rentals ("STR's") that is one of the subjects of the adjourned meeting that will be continued this evening. I also am writing about the "lame duck" nature of the City Council over the coming weeks.

As I have said multiple times in the past, I believe that STR's are unlawful in areas zoned Residential, and that the City has been derelict in its responsibility to enforce the law. Because of this view, I also believe that the proposed ordinance you are considering tonight "grants" STR operators a new property right that they do not currently have. Because of that, it is critical that you ensure that you are not creating any greater rights than you intend to create -- because once you do so, there is no turning back the clock.

I also continue to believe that the interim ordinance you have adopted is both imprudent and unlawful, and I urge you to rescind it and adopt in its place an ordinance that deals exclusively with enforcement and does not, in any way, shape or form, "grant" or "establish" any rights of any sort

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 11/5/20 Agenda File

with respect to STRs. The ordinance is imprudent because it would, if it were lawful, create or establish rights that do not otherwise exist, The ordinance is unlawful because it alters the permissible uses in areas zoned residential without first being submitted for approval to the Coastal Commission.

Lastly, I urge the City Council to refrain from approving any new material action between now and the time the three new members of City Council are seated. At this point, you are a "lame duck" government. While we still do not know for certain what three people have been elected to City Council, we know for certain that RIck Mullen was not reelected and that a majority of you will be gone in just over a month from now. Because any action of City Council now requires the vote of at least one person who will no longer be a member of CIty Council in a few short weeks, I urge you to refrain from acting on new material matters. Don't be like Mitch McConell and bull your way through an agenda that includes matters that will tie the hands of your successors.

For the avoidance of doubt, I do not consider the proposed STR ordinance to be one that you should refrain from approving. This has been through a thorough process and should have been approved well over a year ago. I am, however, referring to any other material action the City Manager may ask you to consider -- such as the proposal to amend the zoning code to permit stand-alone parking lots in the center of town, which was an issue of great concern during the election.

Stay Safe & Stay Well,

Bruce Silverstein

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Oct 26 2020
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FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/26/2020
Agenda Item # 4A

City Council

From: Dean Wenner [redacted]
Sent: Sunday, October 25, 2020 2:31 PM
To: City Council; Justine Kendall
Cc: Reva Feldman
Subject: Short Term Rental Agenda Item for October 26, 2020 Meeting

Hello again,
Thank you for your diligence in this matter and staying safe. Regardless of the election result, next year will surely continue to be a challenge. Please take this into consideration as we go forward as even when we begin to return to some normalcy, all will be challenged on how to pay for the bills that have racked up during these challenging times.

As Malibu addresses the concerns with STRs and proceeds with regulation please take the following into consideration:

1. Requiring rentals to be hosted is a method to ban of short term rentals:
    a. It is an extreme change in the intensity of use in Malibu
    b. It is an extreme change in the access to the shoreline
    c. It is a deviation from the General Plan which is inclusive of rental intent consistent with current day use
    d. It will have a large financial impact on the City in regard to ToT
        i. To implement such action now is not fiscally responsible as impacts beyond City control will hit the budget for the next 2+ years as a result of the pandemic
        ii. Proceeding without appropriately addressing the additional budget shortfall it will create is direct non-compliance with responsibility
2. This regulation is being considered with no change to enforcement methods tools. As such it will not alter the bad behavior this regulation is intended to eliminate but will unfairly penalize code complying owners.
3. Forwarding the current document to Coastal Commission will not result in the action desired and instead commence a drawn out affair where Ordinance 468 will have enforcement problems
    a. It is well documented that regulation outside of the LCP/CDP context is not legally enforceable
    b. Enforcement is a low priority based on current city policy
    c. Poor enforcement will not be fixed by additional regulation
    d. The additional regulation may be well intended to appeal to all Malibu residents but with the Hosted requirement it is bad intention to take rights away from residents
    e. If it is well intended, it is poorly structured as it will not be implemented any time soon
    f. It is in everyone's best interest to resolve this matter expeditiously instead of spending more time and precious resources on it
4. Solution – Further restrictions may be appropriate if further proliferation of vacation rentals would impair community character and the city provides ample supply of vacation rentals. This is the case the City is premising this upon so an attempt at a ban is just not good faith or good city business.
    a. Grandfather current ToT registrants and control better from there – the amount of properties is consistent with the General Plan and rights are not taken from current residents
    b. Most of the items in the proposed regulation are current City Code items and are fine. Creating a permit system is not proper as it is a defacto business license and will jeopardize all that is being attempted.
    c. If a permit system is implemented it cannot unreasonably withhold approval or it will cause more behavior to challenge its legality and put all this back to the current situation.
5. Additional comments as we all want people acting well and respectfully
    a. The problem with some rental owners or their property managers is that they irresponsibly focus on making money and take certain tactics that they either knowingly or unknowingly allow a culture of partying or excessive use. Overpopulating properties and courting partiers to the area is simply wrong. Things that will greatly diminish this:

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i. Strict enforcement of ToT payment (currently required quarterly but I hear no items of legal action to enforce)
ii. 3 night minimum stays
iii. Formal, documented , legitimate submittal of complaints using the Code Enforcement Form and action by Code Enforcement. People just scared of or not wanting to see people they don't know need to adapt a little as its not going away as we live in a beautiful place and we are a city in need of healthy local business. Its not fair, nor complaint with City Policy to strip law abiding owners of rights without proper cause.
iv. Promote neighbors to engage with neighbors instead of making it a City issue – if people are being reasonable and transparent there is always help

Thank you for reading this and taking it into consideration for the community.
Dean

Kelsey Pettijohn

Subject: STR HOSTED ORDINANCE REQUEST MINOR CHANGES
Attachments: 4559.pdf

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City of Malibu
Office of the City Clerk
Meeting Date 11/5/20
Agenda Item # 4A

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Nov 03 2020
CITY CLERKS OFFICE
CITY OF MALIBU

From: Jo Drummond [redacted]
Sent: Tuesday, November 3, 2020 10:08 AM
To: City Council <citycouncil@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Skylar Peak <speak@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Rick Mullen <rmullen@malibucity.org>
Cc: Reva Feldman <rfeldman@malibucity.org>; denise.venegas@coastal.ca.gov <denise.venegas@coastal.ca.gov>; Deanna.Christensen@coastal.ca.gov <Deanna.Christensen@coastal.ca.gov>; Colin Drummond [redacted]
Subject: STR HOSTED ORDINANCE REQUEST MINOR CHANGES

Dear Honorable Mayor Mikke & City Council members, hope Election Day is going well!

Regarding the above that will be voted on this Thursday:

We agree with most of the proposed ordinance wording and commend your planning department and you all for your hard work.

The following two points we would like you to consider amending in your ordinance.

The first below regarding neighborhood notification we'd like you to remove this from the ordinance not only because of the added expense on the homeowner but for privacy reasons:

• Neighborhood Notification. Once a short-term rental permit is issued, the City will provide (at the permit holder's expense) all neighbors within 500 feet the contact information for the owner or designated operator of the short-term rental so that they can directly contact the onsite host with any concerns that may arise. This is not included in the Santa Monica ordinance.

Pls remove this stipulation for short term rentals and simply add a number on the city's website where code enforcement can be contacted re: STR violations. Or obviously the police can be called if it's a noise violation. This notification of our neighbors violates our privacy rights. It's really nobody's business that we have guests in our home. A notice sends a bad message or warning to the neighbors ratter than a welcome.

The second adjustment would be for primary residents like us who only rent our home a short period of time during the year while we vacation. We do not have the luxury of a guest house or a space where a designated operator can stay on the premises and hope you would consider a neighbor within 500 ft as a designated operator to deal with any issues immediately and we can also be contacted and at the site within one hour if we are in the area:

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• SECTION 2. Local Coastal Program Amendments. The LCP Local Implementation Plan (LIP) is amended as follows: A. LIP Section 2.1 is hereby amended by adding the following definitions, inserted in alphabetical order:
DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (**4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.**

Pls. change this highlighted (4) to be living within 500 ft of the short term rental. This will allow us to continue our short term rentals while we are on holiday in the summer and winter holidays. As it is worded now you are currently banning short term rentals from anyone who does not have a guest house on the property as there is nowhere to stay otherwise if the main home is rented out to guests. This change would mean that we could continue to rent out our home at least 60 days of the year if able to use a designated operator within 500 ft of the home with 24/7 contact. So basically an amendment for short term 'short term rentals' that only rent 60 days per year.

Pls advise if this seems reasonable.

Thanks very much,

Jo & Colin Drummond

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Oct 26 2020
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

From: Jamie Hall <jamie.hall@channellawgroup.com>
Sent: Monday, October 26, 2020 2:50 PM
To: City Council
Cc: Heather Glaser; Richard Mollica
Subject: Short Term Rental Hosted Ordinance; Local Coastal Program Amendment ("LCPA") No. 19-003, Zoning Text Amendment ("ZTA") No. 19-005 and Land Use Plan Amendment Resolution No. 20-51
Attachments: FINAL Malibu - STR Comment Letter.pdf

Mayor Pierson and Honorable Members of the City Council:

This office represents Citizens for Responsible Short Term Rental Regulation with respect to the City of Malibu's ("City") proposed approval of the above-referenced LCPA and ZTA and adoption of the above-referenced Resolution regarding short-term rentals (collectively, the "Project"). This office has reviewed the Project and concluded that the Project is not exempt from the California Environmental Quality Act ("CEQA"). The attached letter is intended to inform the City that meaningful environmental analysis is necessary before the Project may be adopted.

Jamie T. Hall
Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211
Main Number: (310) 347-0050
Direct: (310) 982-1760
Fax: (323) 723-3960
Email:jamie.hall@channellawgroup.com
Website: www.channellawgroup.com

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JULIAN K. QUATTLEBAUM, III
JAMIE T. HALL *
CHARLES J. McLURKIN

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

*ALSO Admitted in Texas

October 26, 2020

Malibu City Council
23825 Stuart Ranch Road
Malibu, CA 90265
By Electronic mail: citycouncil@malibucity.org

Re: Short Term Rental Hosted Ordinance; Local Coastal Program Amendment ("LCPA") No. 19-003, Zoning Text Amendment ("ZTA") No. 19-005 and Land Use Plan Amendment Resolution No. 20-51

Mayor Pierson and Honorable Members of the City Council:

This office represents Citizens for Responsible Short Term Rental Regulation with respect to the City of Malibu's ("City") proposed approval of the above-referenced LCPA and ZTA and adoption of the above-referenced Resolution regarding short-term rentals (collectively, the "Project"). This office has reviewed the Project and concluded that the Project is not exempt from the California Environmental Quality Act ("CEQA"). This letter is intended to inform the City that meaningful environmental analysis is necessary before the Project may be adopted.

I. Legal Standard for Common Sense Exemption

Initially, it is important to understand the legal standard for the common sense exemption. The common sense exemption is applicable only when a public agency can see with *certainty* that there is *no possibility* that a project *may* have a significance effect on the environment. As the court in *Myers v. Board of Supervisors* (1976) 58 Cal.App.3d 413, 425, has observed, this exemption should be reserved for those "obviously exempt" projects, "where its absolute and precise language clearly applies."

The initial burden of demonstrating that the common-sense exemption is applicable rests with the City. As explained in *Davidon,*

> In the case of the common sense exemption [] the agency's exemption determination is not supported by an implied finding by the Resources Agency that the project will not have a significant environmental impact. Without the benefit of such an

implied finding, the **agency must itself provide the support for its decision before the burden shifts to the challenger**. Imposing the burden on members of the public in the first instance to prove a possibility for substantial adverse environmental impact would frustrate CEQA's fundamental purpose of ensuring that government officials "make decisions with environmental consequences in mind."

54 Cal. App. 4th at 116 (emphasis added). An agency abuses its discretion if there is no basis in the record for its determination that the project is exempt from CEQA. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 81.

As explained in *Davidon,* the "showing required of a party challenging an exemption under common sense exemption is *slight*, since that exemption requires the agency to be certain that there is no possibility the project may cause significant environmental impacts. If *legitimate questions* can be raised about whether the project might have a significant impact and there is any dispute about the possibility of such an impact, the agency cannot find with certainty that a project is exempt." 54 Cal. App. 4th at 117 (emphasis added). Further, claims raised by opponents "even if exaggerated or untrue" may be sufficient to remove a project from the common sense exemption. *Myers v. Board of Supervisors* (1976) 58 Cal.App.3d 413. A petitioner must simply offer a reasonable argument to suggest a possibility that a project may cause a significant environmental impact. Once that occurs, a public agency must refute that claim to a *certainty* before finding that the common sense exemption applies. *Davidon Homes v. City of San Jose* (1997) 54 Cal. App. 4th 106, 118 (emphasis added).

In *Davidon,* the homebuilder simply argued that the activity in question "would result in noise, dust, and visual impacts on surrounding residents, wildlife and plantlife" and that was deemed adequate. *Id.* at 118-120. The court held that the City had failed to refute these claims to a certainty rendering the common sense exemption inapplicable. *Id. at 120.*

II. Short Term Rentals Cause Numerous Significant Impacts on Malibu's Coastal Environment

There can be no dispute that Malibu's serene beaches, picturesque coastal hillsides and rustic community aesthetic are unique environmental resources protected by both CEQA and the Coastal Act. Many of Malibu's residential neighborhoods, both single- and multi-family, are directly adjacent to public beaches, coastal bluffs, rock outcroppings and other scenic resources. Vast stretches of Malibu's hillsides are further characterized as Environmentally Sensitive Habitat Areas ("ESHA") and afforded heightened protection under the Coastal Act as habitats which are "rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." Pub. Res. Code § 30107.5.

The administrative record is replete with vivid illustrations of the environmental consequences of short-term rentals. Malibu residents and property owners have exhaustively documented aesthetic complaints regarding illegal trash disposal, illegally parked vehicles and buildings falling into disrepair due to absentee investor-hosts. Noise impacts are also documented, with residents and hosts alike documenting large and loud parties day and night. One resident noted that noise impacts in parts of Malibu – apparently referring to the Beachfront and Multifamily Beachfront zones – are especially disruptive because of the limited or non-existent setbacks between structures. Residents have also complained that septic systems are

unable to accommodate the high volume of users from repeated events associated with STR uses. In a recent article for Malibu Magazine, attached as **Exhibit A** one resident observed that 120 individual guests might stay in a single unit over a summer, and that 60 percent of the homes in his neighborhood are used for short-term rentals.

III. The Project Will Foreseeably Concentrate Unhosted Short Term Rental Activity in Multifamily Zones and Exacerbate Impacts on Coastal Resources

The Project's regulatory framework concentrates Short Term Rental ("STR") activity in the City's multifamily zones, particularly those adjacent to serene beaches and sensitive coastal habitats. First, the Project effectively permits STR activity as a by-right use in the BF and MFBF Zones where such uses would currently constitute unpermitted hotel, motel or bed-and-breakfast uses. The Project would amend the uses permitted in the Local Implementation Plan Table B and in the Malibu Municipal Code to allow STR use in the BF and BFMF Zones. Second, while the Project permits only Hosted Short-Term Rental uses in single-family zones, in the BF and BFMF Zones it permits *unhosted* Short-Term Rental uses in up to two units per multifamily building.[1]

According to the City's staff reports, the City of Malibu includes approximately 94 multifamily parcels, of which 73 parcels are in multifamily zones.[2] Because the Project would allow up to two unhosted STR units on each parcel, the Project would essentially legalize and incentivize the development of 146 highly-impactful STR units. Incentivizing even a handful of STR units highly concentrated in sensitive coastal areas would exacerbate the environmental impacts already thoroughly documented by the City's residents. Given the large number of STRs concentrated on short stretches of public beach, occurrences which might be uncommon for an individual unhosted STR would risk becoming daily life. With minimal setbacks in the BF and MFBF Zones, and with outdoor areas and balconies facing public beaches, noise impacts to both residents and the public are virtually guaranteed. An unruly overcrowded party might be rare for an individual STR, but would be a weekly or daily occurrence on stretches of beach concentrated with dozens of STRs.

As shown on the City's Zoning Maps in **Exhibit B** these multifamily zones directly abut Puerco Beach (Zoning Map 3) and portions of beach between Topanga and Carbon Beaches (Zoning Map 4). Critically, these multifamily zones abut or are located across Pacific Coast Highway from Environmentally Sensitive Habitat Areas (ESHA Overlay Maps 3 and 4). The risk of disruption to the public beach and the adjacent ESHAs is especially heightened because the Project does not require an on-site host for these rentals. It is not reasonable to presume that hosts and guests would both perfectly self-regulate their activities to ensure with certainty that there is no possibility that environmental impacts would occur.

IV. The Project Will Foreseeably Incentivize New Development of Guest Houses in Single Family Zones

The Project's environmental impacts are not limited to the City's multifamily zones. In single-family zones, the Project would spur development of new guest houses for several reasons. Property owners would naturally seek to build new Guest Houses as a response to the

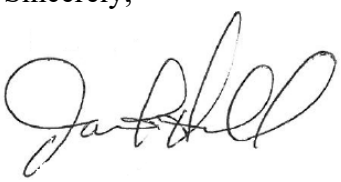
[1] Proposed MMC §§ 17.55.010-A and 17.550.040-B.
[2] Council Agenda Report for Item 4.B (Short Term Rental Ordinance) prepared for the September 26, 2018 Malibu City Council meeting, p. 5.

hosting requirement in single-family zones. Many property owners have written comment letters objecting to the hosting requirement on the basis that both hosts and guests prefer the privacy and do not want a host sleeping in the same dwelling. Virtually every property in Malibu's Rural Residential zones would have ample lot area on which to construct a new Guest House. Given the desire to preserve privacy, the vast financial incentives to engage in STR activity and the Project's permissive regulations towards Guest Houses, it is reasonable to anticipate that these owners would respond by constructing new Guest Houses on their parcels. Furthermore, the Project's definition of Guest House is permissive, allowing up to 900 square feet of living area in addition to a 400 square foot garage. Any new construction of Guest Houses across Malibu's Rural Residential zones, overlaying its scenic coastal hillsides and ESHAs, is likely to result in aesthetic, biological and noise impacts related to construction and further encroachment of development and human activity towards coastal ESHAs. Moreover, because Guest Houses are operationally similar to an unhosted STR, with the host potentially hundreds of feet away in a separate dwelling, STR activity in Guest Houses would be susceptible to causing the same operational environmental impacts as unhosted STRs, including overcrowding, intoxicated guests, trash and excessive noise. Therefore, it cannot be seen with certainty that the Project would have no possibility of having a significant effect on the environment.

V. Conclusion

For the reasons outlined above, the Project is not exempt from CEQA because it cannot be seen with certainty that the Project would have no possibility of a significant environmental impact.

Sincerely,



Jamie T. Hall

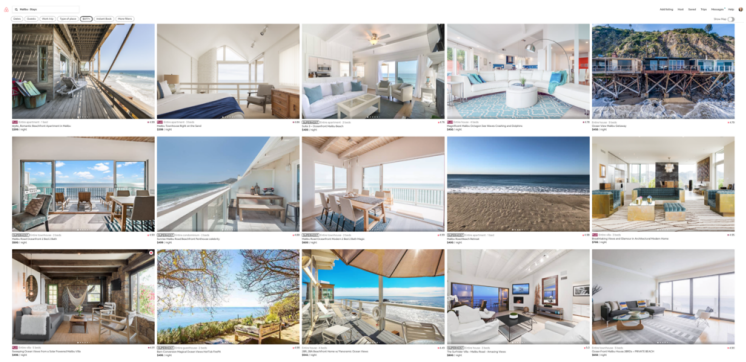
Exhibit A

MALIBU MAGAZINE

Will Malibu Adopt New Short-term Leasing Laws?

WITH THE GROWTH OF HOME SHARING SERVICES LIKE AIRBNB, SHORT TERM RENTALS HAVE BECOME A DIVISIVE TOPIC WITH RESIDENTS ON ONE HAND LAUDING THE SERVICE FOR PROVIDING SUPPLEMENTAL INCOME FOR BOTH THEMSELVES AND THE CITY, AND OTHERS MAINTAINING THE CITY NEEDS STRICTER RULES AND REGULATIONS.

Written by Barbara Burke



Owning property and enjoying peace in one's home are fundamental constitutional rights in America, as is the right to exercise control over one's property within the bounds of the law. When one objectively reviews the debate regarding how to regulate short-term rentals ("STR's) in Malibu and surrounding communities, they realize that it is a multi-faceted issue.

As officials grapple about what decisions to make, they are cognizant of both macro and micro-level viewpoints regarding the issue. Looking at the

MALIBU Magazine

Malibu has a paucity of exorbitantly expensive housing for locals and visitors. Further, they weigh the fact that local businesses benefit from selling goods and services to people staying in short-term

rentals because Malibu has a significantly decreased population after the Woolsey Fire as well as many part-time residents. Area businesses are struggling to survive. Thus, short-term rentals and commercial activities they support generate business, create jobs and help fund the City's government activities.

However, when one views the issues from the perspective of some Malibu homeowners, many objections to short-term rentals come to light. Many citizens feel that, when deciding how to regulate short-term rentals, officials should strongly focus on the fact that preserving a rural quality of life in Malibu is mandated in its city charter and policies and is a community tradition. Specifically, they maintain that city budgetary considerations should neither trump preserving Malibu's rural character nor compromise its residents' quiet enjoyment of homes and neighborhoods.

Conversely, other citizens advocate allowing short-term rentals in residential areas, arguing that the only way they can make ends meet is to supplement their income through such rentals. They assert they have a right to use their homes as they see fit.



Others, such as citizen advocate, Michael Lustig, note that the short-term rental industry is lucrative for corporate entities such as Airbnb, the industry leader, and by two websites owned by Expedia - VRBO (Vacation Rental By Owner) and

with Airbnb expanding into providing in-home experiences in neighborhoods, sometimes offering cooking, yoga, pottery classes or other activities and generating many thousands a day doing so,

even when the hosts do not provide overnight accommodations. Such experiential offerings cause extra traffic in neighborhoods as well as noise and disruption for homeowners nearby, Lustig notes.

To the exasperation of many citizens espousing all those positions, the Malibu City Council has been struggling with how to address the matter for four years. Its efforts were somewhat impeded by a change in the composition of the city council during the last election, by the Woolsey Fire - and some, including City Councilperson Jefferson "Zuma Jay" Wagner, say that when the City Council instructed city staff persons to draft an ordinance to strictly regulate short-term rentals, staff "did not make doing so a priority."

The City Council Acts - Leaving Many Questions Open

On December 3, 2019, before a full house of Malibu residents, the City Council unanimously voted to seek a Local Coastal Program Amendment (LCPA) from the Coastal Commission that emulates a Santa Monica short-term rental ordinance upheld by the Ninth Circuit Court of Appeals. That ordinance enables residents to apply for home-sharing permits to host visitors for compensation for a period of less than 31 days as long as the resident and visitor are both in the home. Unhosted short-term rentals of residential houses are unlawful in Santa Monica, a feature that the Malibu City Council also approved. Notably, the State of California mandates that a licensed real estate agent be involved when rentals exceed thirty-one days.

Malibu City staff informed the council that it can expedite its submittal of the proposed LCPA to the

the proposed Amendment to the City for changes. That process, City Councilperson Jefferson "Zuma Jay" Wagner notes, could mean that the matter won't be finalized until after the city council

election in November. If that happens, Wagner laments, it is possible that no progress will be made on this issue once again.

"We don't want the LCPA drafting by the City to get mired in staff Siberia,"

Wagner says. "The city council voted 5-0 that the matter be expedited and I am sincerely hopeful it will be – I will be seeking an update from city staff at every council meeting."

Until the LCPA is processed, Wagner said, "the City must deal with the unsatisfactory status quo." Technically, the current code prohibits short-term rentals, he noted. However, he says, "until the law is changed, it will be business as usual," a situation that he characterizes as "the City not being able to enforce codes with no teeth."



John Mazza is a member of the City Planning Commission.

Moreover, with regard to a possible delay of the City Council taking any definitive action about short-term-rentals, it is unclear to many whether the City needs to consult the Coastal Commission at all. At the December 3 meeting, John Mazza, a City Planning Commission member, stated that the City was not obligated to ask for the Commission's guidance because the City already has a LCPA authorizing it to promulgate a new ordinance governing STR's

"The Coastal Commission can change what you do if you ask them," He said. "So, don't ask them."

Mazza also asked the Council to pass a budget item for the planning department and staff to expedite processing the ordinance so it could become effective before the end of summer of 2020.

A Conversation With Stakeholders and An Advocate Proposing a Solution

Seeking to define next steps for short-term rentals, *MALIBU MAGAZINE* spoke with Lustig, who thoroughly explained the nuances of his petition's provisions. We also spoke with citizens who hold positions on all sides of the issue. Of course, the monetary and enforcement aspects of the issue - both with regard to the City's tax receipts and with regard to citizens augmenting incomes by renting short-term rentals - were at the forefront of many resident's concerns.

First, Lustig says that not all short-term rentals are bad and the home-sharing provision in Santa Monica's regulation strikes a reasonable balance. Second, there needs to be transparency with regard to TOT remittances - the City must be able to audit the books of residents renting short-term rentals. Third, the laws must be enforced. Fourth, officials need to realize that Airbnb and other entities in the short-term rental space are not just renting properties overnight - rather, they are rapidly expanding their menus to offer experiences such as hosting meals, yoga or cooking classes to groups several times a day, thus exacerbating the impact of their activities on nearby residents.

MM: "Why is home-sharing - the requirement that those residents who rent short-term rentals - a plausible solution to this issue?"

short term rentals.´´

MM: "Why are you concerned about the deal the City negotiated with Airbnb?"

ML: "Airbnb's Voluntary Tax Deal ("VTA") bargained away future enforcement by the City. Its provisions grant tax amnesty - there is a waiver of a look back - and that hinders enforcement because it provides for pass-through registration - if a host uses Airbnb, he is not required to register with the City and Airbnb doesn't provide the City with the hosts' information so there is data blindness. Further, Airbnb is not required to submit back-up reporting with its TOT remittance and therefore, the City cannot reconcile payments. Section 8 of the TCA precludes the City from auditing any individual before auditing Airbnb first." Auditing Airbnb could cost in the hundreds of thousands perhaps he noted. Lustig elaborated, stating he did not fault the City of Malibu for negotiating the TCA deal, but adding "In 2008, when we were in the middle of a great recession and when Airbnb started, if Airbnb had come to the City council and said, "we are going to deplete 15 to 20 percent of the City's home inventory and turn them into hotels," the City Council would not have approved that - they would have laughed at them and told them to get the hell out of there."

Lustig is not compensated for his efforts to get Malibu's City Council to address the short-term rental issues and, hopefully, to reach a solution addressing distressed homeowners's vociferous concerns that their neighborhoods are being hijacked by short-term rentals. However, he lives on Malibu Road and intimately familiar with frustrations and concerns attributable to short-term rentals.

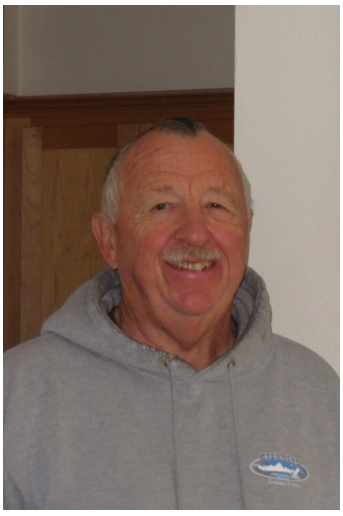
ML: "Where I live, 60 percent of the homes have become a hotel and that changed the character of the neighborhood. In the summer, there are many guests a year, sometimes 120 in a unit over a

MALIBU Magazine

and pops, but is instead a massive business that is consolidated and rents home rental units." With Lustig's proposed ordinance - and his trepidations about short-term rentals in mind - and knowing that the proposal has been sent back to the City Staff to draft a provision emulating the Santa Monica ordinance, since it is their City, Malibu Magazine talked with some Malibu citizens about their opinions.

Those Who Object to Short-term Rentals in Malibu

"STR's are the STD's of a neighborhood - let's toss out this infection once and for all," Malibuite Marshall Thompson wrote in support of the petition spearheaded by Lustig that urges the City of Malibu to impose regulations limiting short-term rentals to properties whose owners are on-site during a rental period of fewer than thirty days, thereby adopting a standard like Santa Monica's ordinance. Notably, more than four hundred Malibuites joined in Lustig's petition, including some who strongly advocate allowing STR's in residential neighborhoods.



Bill Sampson has had to put up

Like Lustig, many residents complain that most of the short-term rental units in Malibu are not owned by members of the community, but rather, by investors located in other areas who are unfamiliar with Malibu. Some also complain that when an owner is off-site and cannot control occupants, short-term

piles up. There is too little accountability, compromising residents' rights to quiet enjoyment of their property.

"I bought a home in a residential neighborhood," Bill Sampson said. "Instead, we have a parade of cars throughout our neighborhood, loud parties, and people drive like they are in a commercial zone - it is not their home or neighborhood, so they simply don't care."

Short-Term Rentals' Effect on the Housing Market

Citing the escalating costs of long-term rental properties in Malibu, some citizens object to the rampant operating of short-term rentals on grounds that there is a shortage of long-term rental properties in Malibu, which hinders those of lesser means from residing here even though they may work in Malibu.

"There is not a kid on our block," Sampson said. "That's a bad thing - I purchased a home in a residential neighborhood where I wanted someone to coach my kid in baseball and where there was a sense of community."

Other residents, while recognizing those objections, feel, as does Lustig, that there is somewhat of a happy medium to be configured. Heikki Ketola, a Malibu resident for more than thirty years, rented part of his home before his property burned down in the Woolsey Fire. Ketola was always on-site when he did so. He comprehensively screened applicants before renting to anyone and he ensured the short term rental usage was safe, lawful and did not disturb nearby residents.

"Heikki is an example of how home-sharing can work well," Lustig says.

the sense that it provides for reasonable regulations," Ketola says. "In all the years that I have rented my short term rental, I have had only two complaints that I addressed immediately."

Ketola notes that it is very user-friendly to have pass-through registration. He recounted that when he utilized Airbnb, the company would collect and pay the 12-percent TOT to the City of Malibu. Lustig notes that all vendors conducting short-term rental operations in the City should be treated uniformly and, importantly, that the City should be able to audit the vendors' books as it does hotels, which are also defined as short-term rentals.

For her part, Natalie Soloway, a Malibu resident since 1978, who has also rented rooms at her home while she was on-property, advocates having short-term rentals that are responsibly monitored and rented.

"Malibu cannot be an isolated mecca," Soloway said. "We should be welcoming, not elitist, and we should rent short-term rentals to share this amazing place so that others can experience it while being respectful of our environment."

Soloway points to the fact that any permits required by the City should not cost too much, thus ensuring compliance. She also notes that there are not enough hotel rooms in Malibu and that Pepperdine parents need to be able to rent lodging near their students.

"If we're not a welcoming community, then what are we?" Soloway said. "We are so fortunate to live here and it's wrong not to share our good fortune."

Following The Money

To further complicate matters surrounding the short-term rental issues, as with all things in modern society, money talks and, according to a November 19, 2019 report authored by Elizabeth

revenues derived from STR's, Councilperson Wagner notes, "amount to a fair amount - almost ten percent of the city's income."

Lustig notes that reported revenue from STR's increased by 242% between 2016 and 2018, increasing from $1 million to $2.46 million.

To discern how the tax revenue factor should play into the calculus of the City council determining what to do about short term rentals, some terms of art and realities need to be unpacked.

First, hotel rooms in Malibu are subsumed in the definition of "short term rental." Second, unlike hotel rooms, which must allow the City to audit their books to verify their revenues, other short term rentals, such as those in private homes through Airbnb etc., have no duty to allow a City audit.

"The platforms keep the data secret, so there is no way for the City to know how much TOT revenue it is entitled to," Lustig said. "That's part of the reason for strict regulation - cities now only collect about half of the revenue because Airbnb is the only platform currently paying them - but Airbnb provides no ledger or reporting with their tax remit and HomeAway, VRBO and the rest do not as well."

Diving deeper, Lustig notes that Airbnb has a sweetheart deal with the City, unlike any of the other platforms in the short-term rental space, varying from larger platforms such as Homeaway to smaller players.

"Airbnb negotiated a Voluntary Tax Collection deal ("VTC")," Lustig explained. "The new rules that the Council told City staff to draft treat all platforms equally and negate the City's VTC deal with Airbnb that gives them special treatment."

The deal does not work for Wagner and he advocates changing the dynamic and treat short-

abilities, so that we can accurately quantify STR income."

There is of course, another elephant in the room. Not all homeowners or business owners who operate STR's comply with the mandate that they obtain a City permit to do so, thus further exacerbating the City's suffering from informational asymmetry in this arena, as does the fact that it is unclear how many STR's burned down in the fire.

All in all, as Malibuites wait for the City staff to draft a LCPA emulating that of Santa Monica, Malibu is the wild west - the likes of Airbnb are renting short-term rentals and, to the frustration of many, changing neighborhoods, and all the while, many are not remitting the TOT to the City.

The 5-0 Malibu city council vote sent city staff a clear message to get short-term regulations drafted expeditiously and correctly. They did so, as Mayor Pro Tem Mikke Pierson said at that meeting, so that Malibu can retain its residential character, as citizens who purchased real estate expected and as its City charter contemplates. **MM**

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MALIBU
MAGAZINE

School

NEXT

Malibu's Painted Utility Boxes Explained

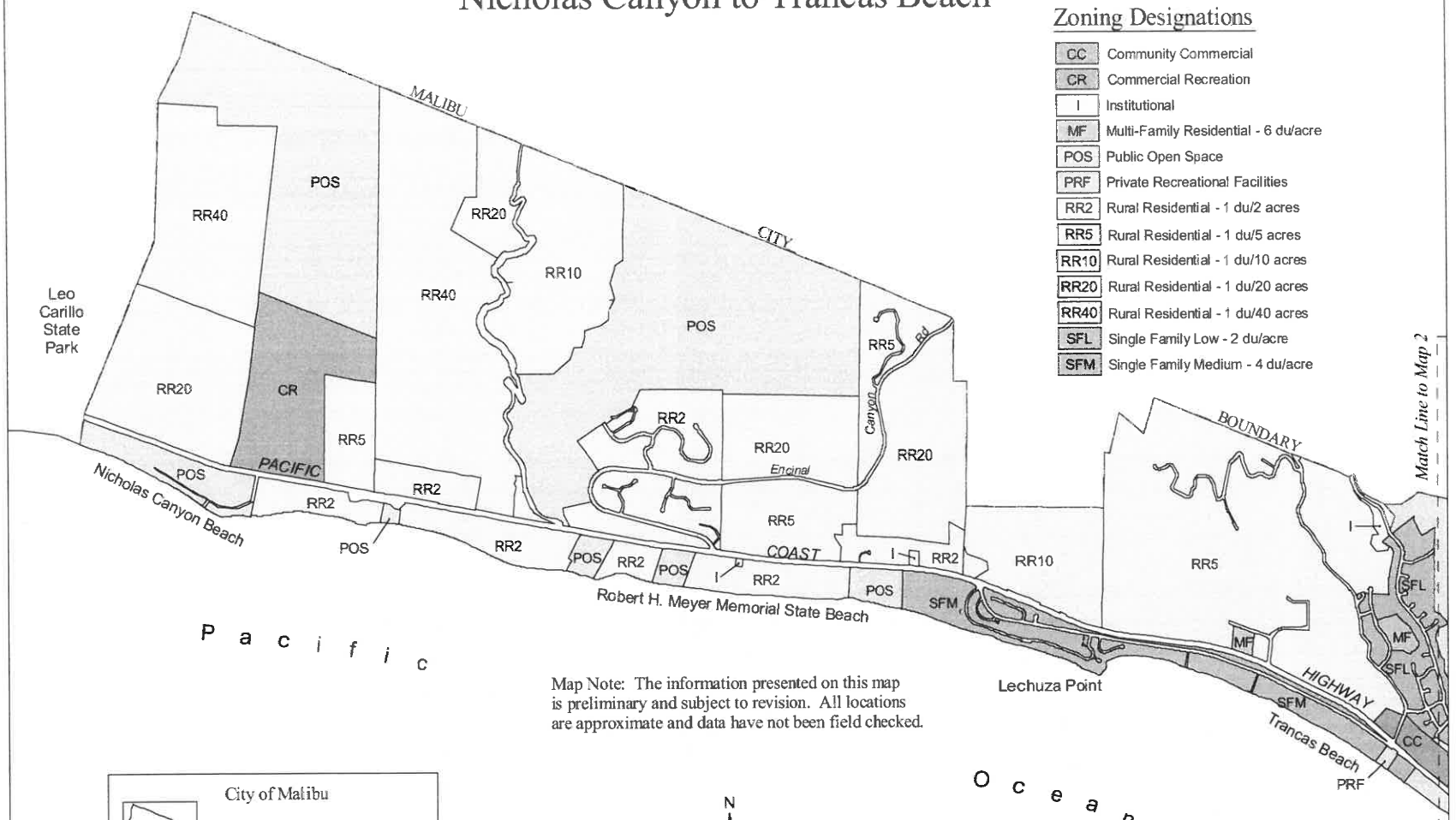
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Exhibit B

Local Coastal Program - City of Malibu

Zoning Map 1:
Nicholas Canyon to Trancas Beach

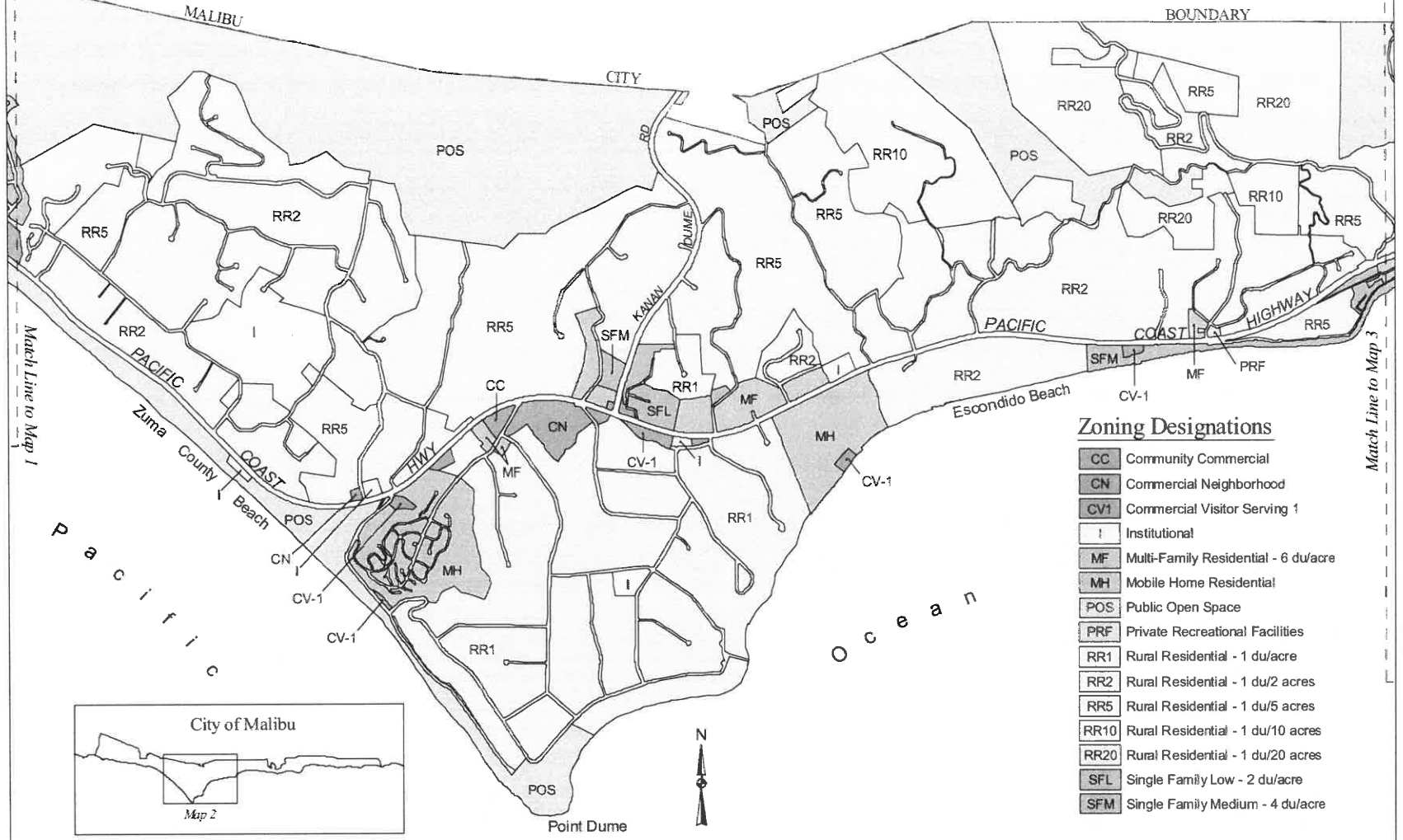


California Coastal Commission
Technical Services Division

Local Coastal Program - City of Malibu

Zoning Map 2:
Zuma Beach to Escondido Beach

Map Note: The information presented on this map is preliminary and subject to revision. All locations are approximate and data have not been field checked.



Zoning Designations

CC	Community Commercial
CN	Commercial Neighborhood
CV1	Commercial Visitor Serving 1
I	Institutional
MF	Multi-Family Residential - 6 du/acre
MH	Mobile Home Residential
POS	Public Open Space
PRF	Private Recreational Facilities
RR1	Rural Residential - 1 du/acre
RR2	Rural Residential - 1 du/2 acres
RR5	Rural Residential - 1 du/5 acres
RR10	Rural Residential - 1 du/10 acres
RR20	Rural Residential - 1 du/20 acres
SFL	Single Family Low - 2 du/acre
SFM	Single Family Medium - 4 du/acre

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Sources: CCC Public Access Database, Malibu/Santa Monica Mountains Area Plan, LA County Parks and Recreation, 1983.

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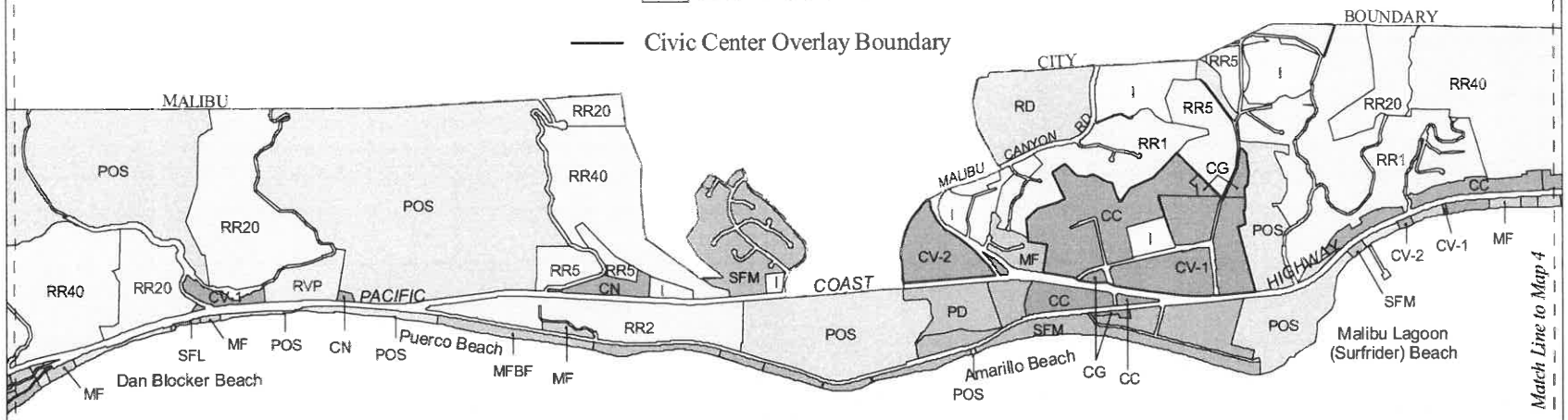
Local Coastal Program - City of Malibu

Zoning Map 3:
Dan Blocker to Malibu Pier

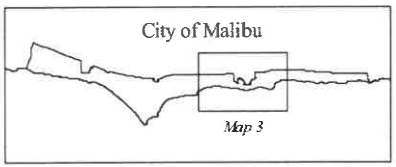
Land Use Designations

- CC Community Commercial
- CG Commercial General
- CN Commercial Neighborhood
- CV1 Commercial Visitor Serving 1
- CV2 Commercial Visitor Serving 2
- I Institutional
- PD Planned Development
- MF Multi-Family Residential - 6 du/acre
- MFBF Multi-Family Beach Front
- POS Public Open Space
- RD Industrial/R&D
- RVP Recreational Vehical Park
- RR1 Rural Residential - 1 du/acre
- RR2 Rural Residential - 1 du/2 acres
- RR5 Rural Residential - 1 du/5 acres
- RR20 Rural Residential - 1 du/20 acres
- RR40 Rural Residential - 1 du/40 acres
- SFL Single Family Low - 2 du/acre
- SFM Single Family Medium - 4 du/acre

—— Civic Center Overlay Boundary



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Map Note: The information presented on this map is preliminary and subject to revision. All locations are approximate and data have not been field checked.

Sources: CCC Public Access Database, Malibu/Santa Monica Mountains Area Plan, LA County Parks and Recreation, 1983.

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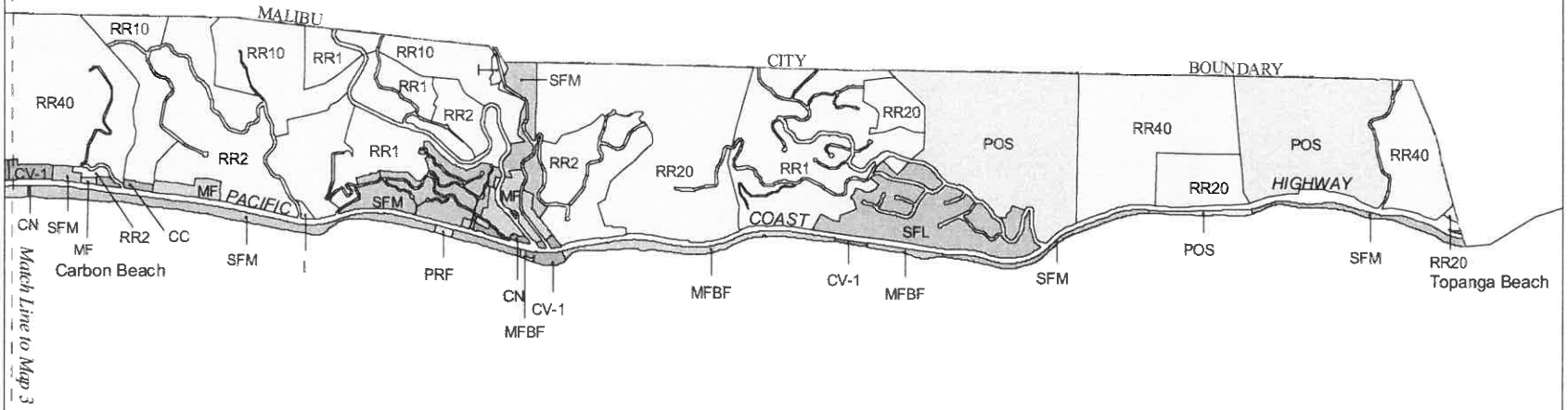
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Local Coastal Program - City of Malibu

Zoning Map 4:
Carbon Beach to Topanga Beach

Zoning Designations

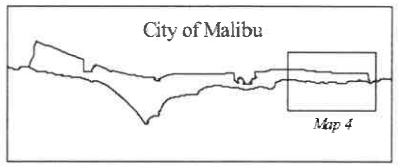
CC	Community Commercial	MFBF	Multi-Family Beach Front	RR10	Rural Residential - 1 du/10 acres
CN	Commercial Neighborhood	POS	Public Open Space	RR20	Rural Residential - 1 du/20 acres
CV1	Commercial Visitor Serving 1	PRF	Private Recreational Facilities	RR40	Rural Residential - 1 du/40 acres
I	Institutional	RR1	Rural Residential - 1 du/acre	SFL	Single Family Low - 2 du/acre
MF	Multi-Family Residential - 6 du/acre	RR2	Rural Residential - 1 du/2 acres	SFM	Single Family Medium - 4 du/acre
		RR5	Rural Residential - 1 du/5 acres		



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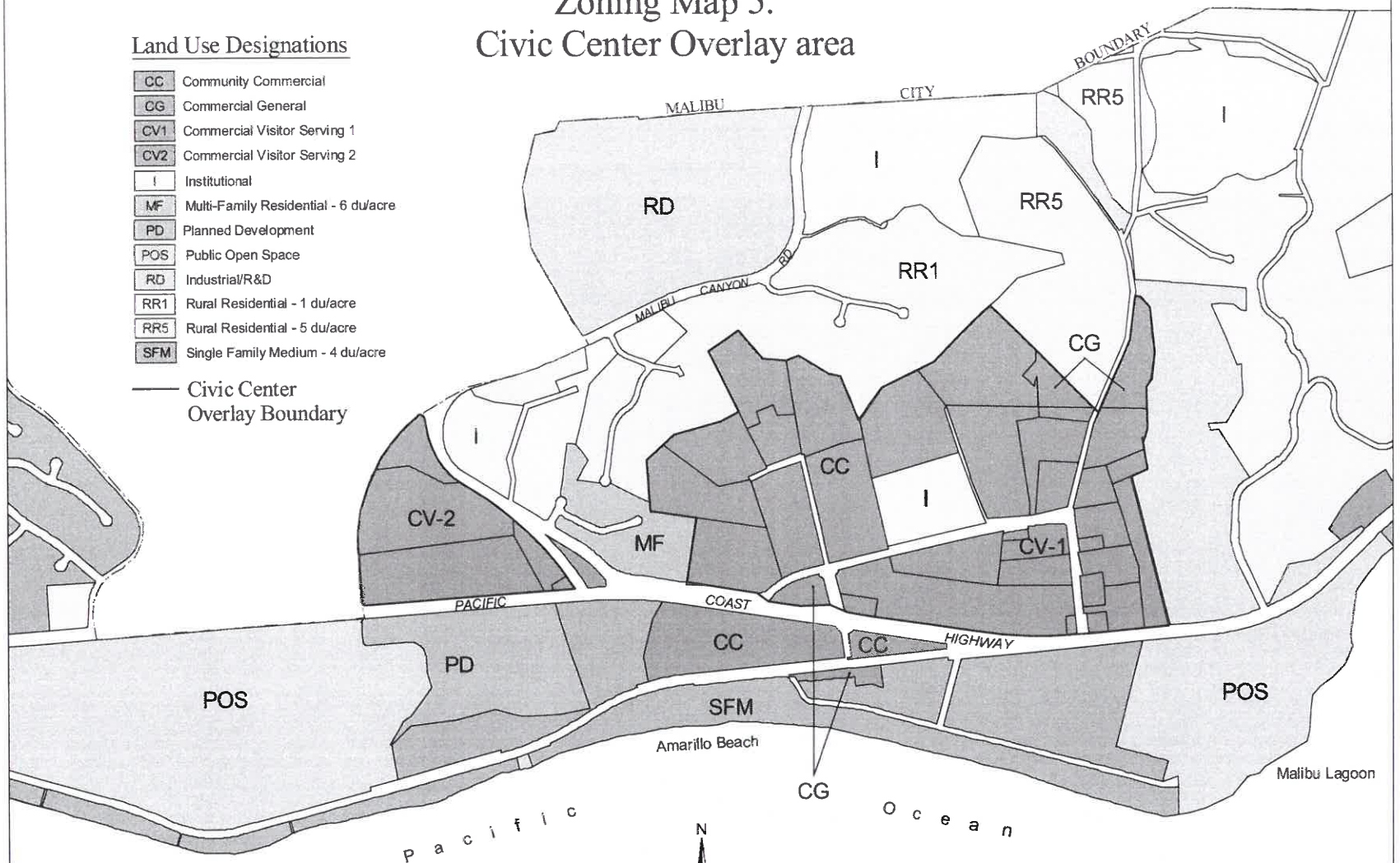
Sources: CCC Public Access Database, Malibu/Santa Monica Mountains Area Plan, LA County Parks and Recreation, 1983.

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Local Coastal Program - City of Malibu

Zoning Map 5:
Civic Center Overlay area



Map Note: The information presented on this map is preliminary and subject to revision. All locations are approximate and data have not been field checked.

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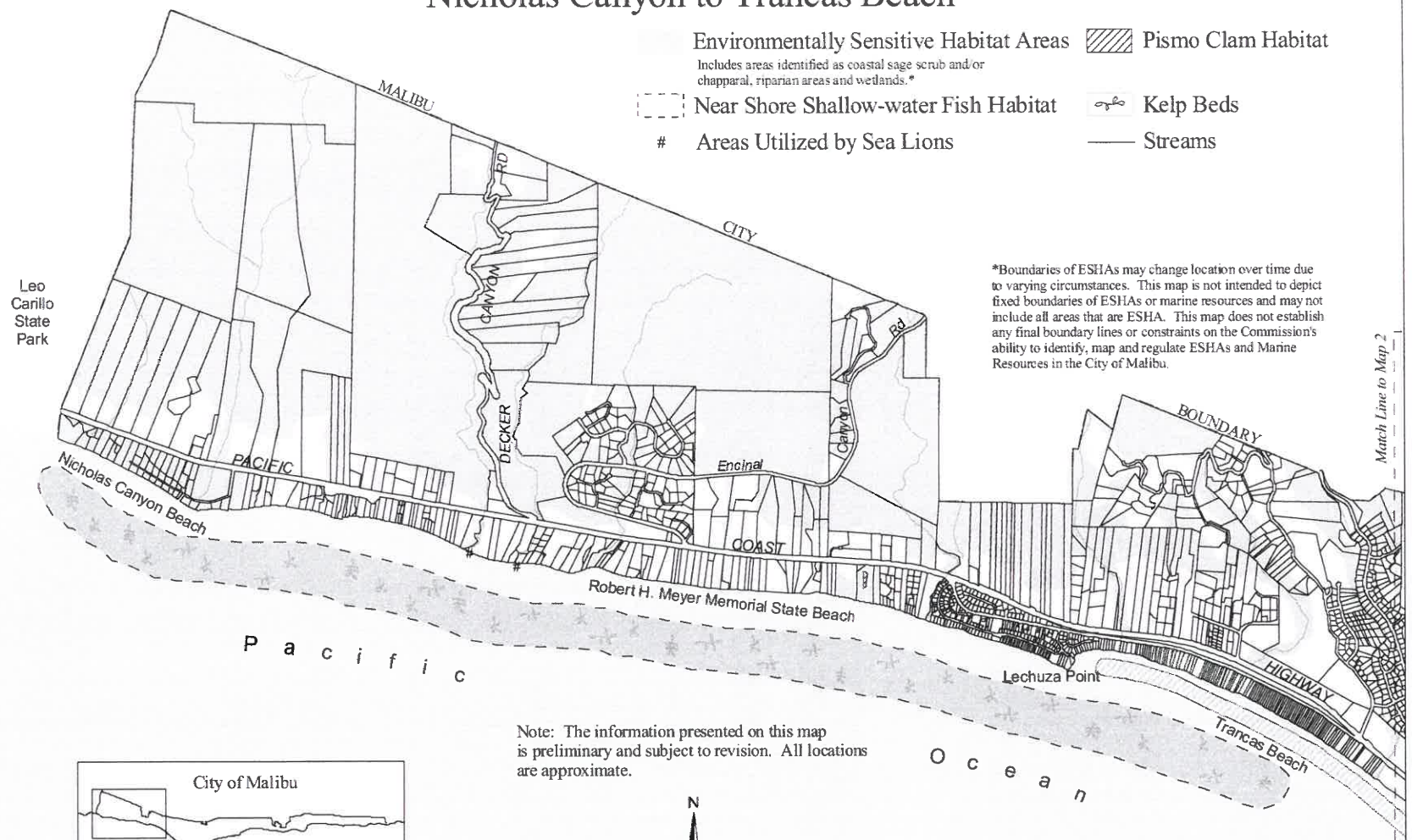
Sources: CCC Public Access Database, Malibu/Santa Monica Mountains Area Plan, LA County Parks and Recreation, 1983.

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Local Coastal Program - City of Malibu

Preliminary Draft

ESHA Overlay Map 1:
Nicholas Canyon to Trancas Beach



California Coastal Commission
Technical Services Division

Sources: Malibu/Santa Monica Mountains Area Plan, Marine Resources map, LA County LCP, 1987, LA County Parks and Recreation, 1983, CCC Staff, 2001-2002.

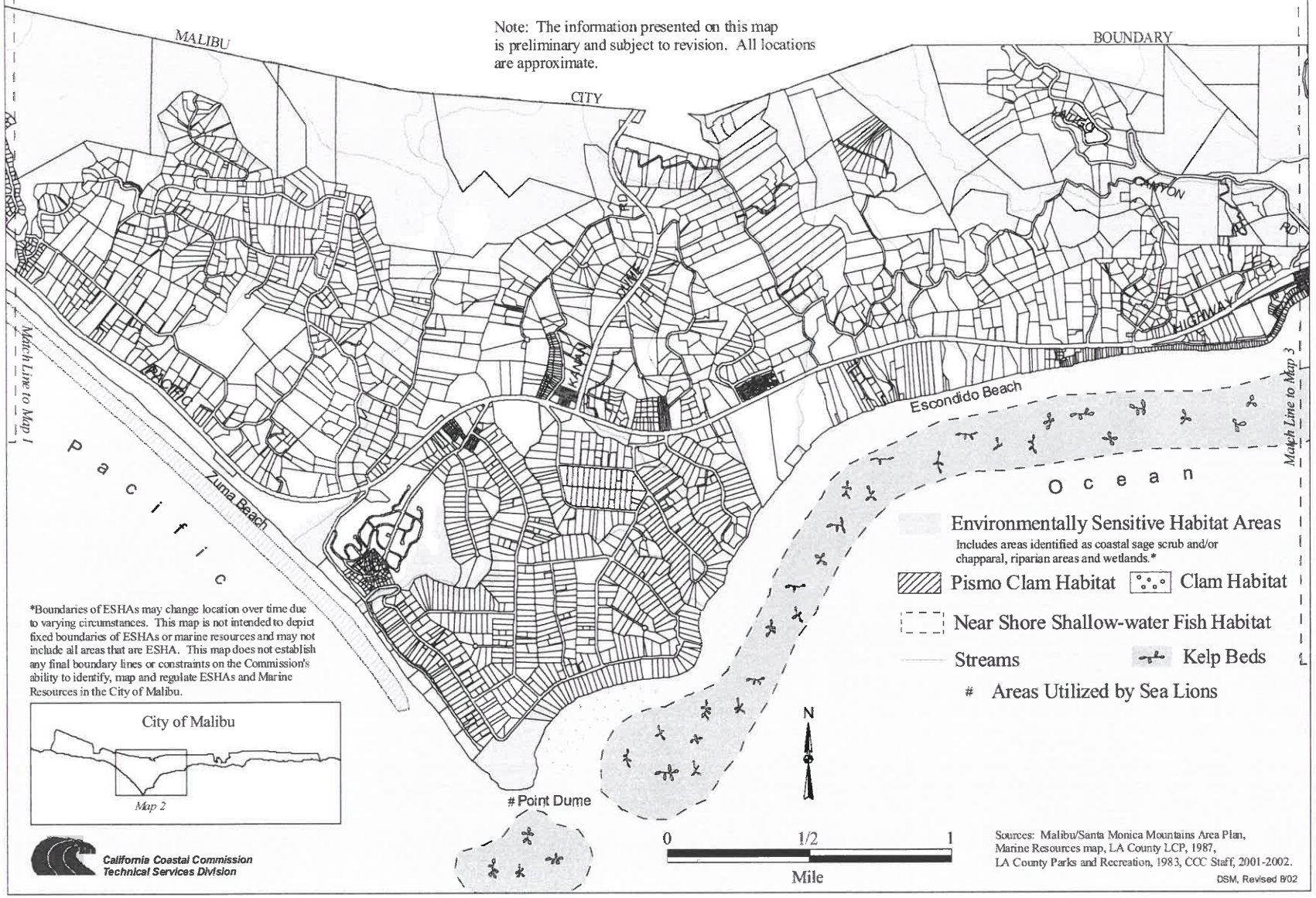
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Local Coastal Program - City of Malibu

Preliminary Draft

ESHA Overlay Map 2: Zuma Beach to Escondido Beach

Note: The information presented on this map is preliminary and subject to revision. All locations are approximate.



*Boundaries of ESHAs may change location over time due to varying circumstances. This map is not intended to depict fixed boundaries of ESHAs or marine resources and may not include all areas that are ESHA. This map does not establish any final boundary lines or constraints on the Commission's ability to identify, map and regulate ESHAs and Marine Resources in the City of Malibu.

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Technical Services Division

Sources: Malibu/Santa Monica Mountains Area Plan, Marine Resources map, LA County LCP, 1987, LA County Parks and Recreation, 1983, CCC Staff, 2001-2002.

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Local Coastal Program - City of Malibu

Preliminary Draft

ESHA Overlay Map 3: Dan Blocker to Malibu Pier

Environmentally Sensitive Habitat Areas

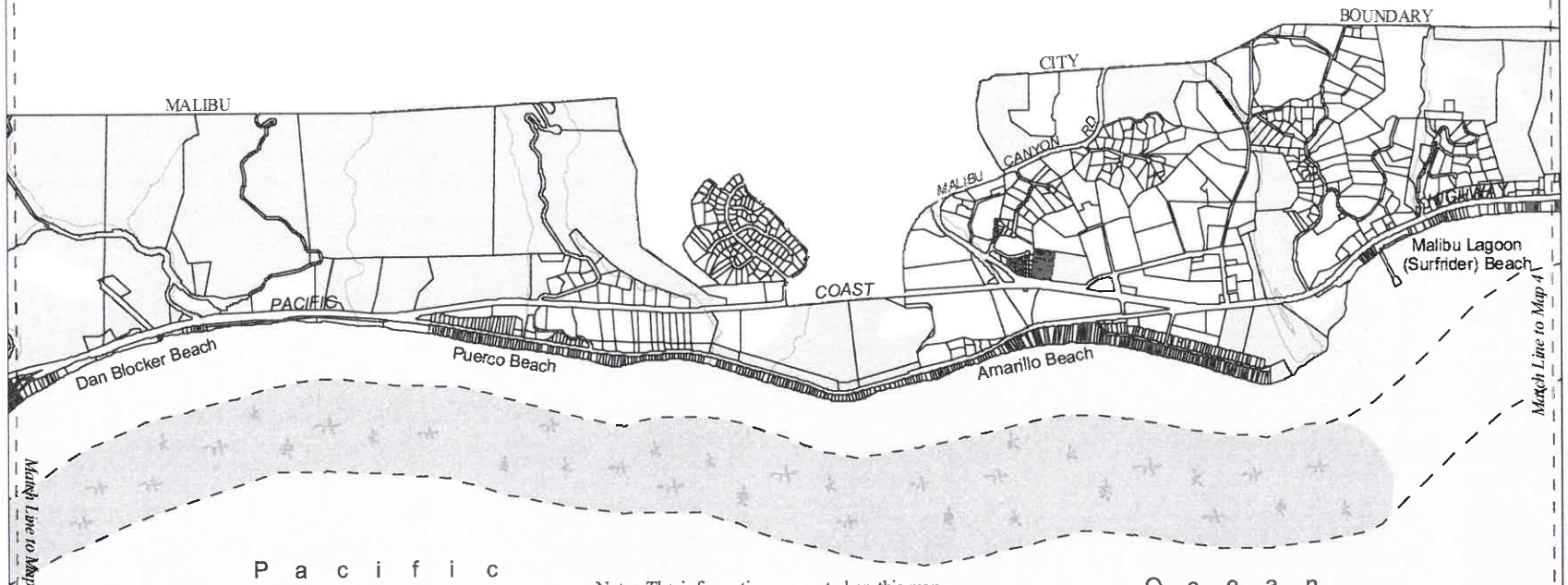
Includes areas identified as coastal sage scrub and/or chapparal, riparian areas and wetlands.*

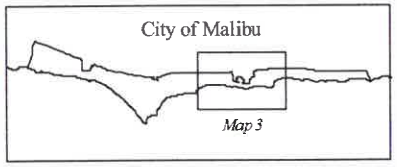
Kelp Beds

Streams

Near Shore Shallow-water Fish Habitat

Clam Habitat





Note: The information presented on this map is preliminary and subject to revision. All locations are approximate.

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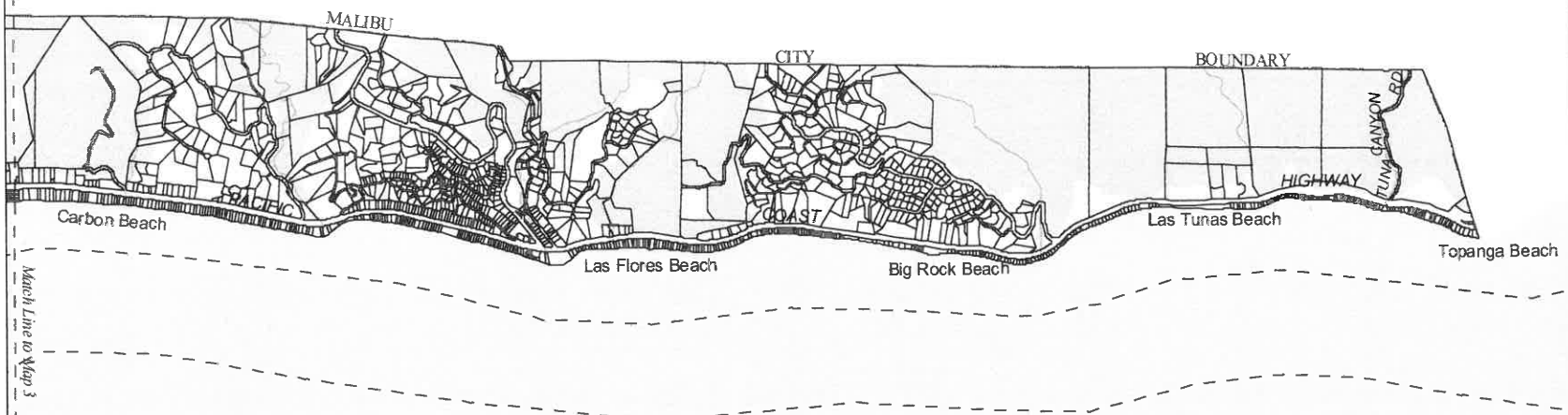
Local Coastal Program - City of Malibu

ESHA Overlay Map 4:
Carbon Beach to Topanga Beach

Environmentally Sensitive Habitat Areas
Includes areas identified as coastal sage scrub and/or chapparal, riparian areas and wetlands.*

Near Shore Shallow-water Fish Habitat

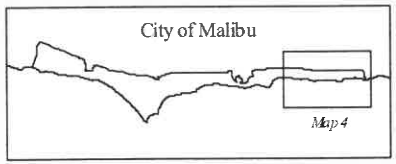
Streams



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Technical Services Division

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Kelsey Pettijohn

RECEIVED
Nov 04 2020
CITY CLERKS OFFICE
CITY OF MALIBU

Subject: FW: Iten 4A Nov 5 comment

From: John Mazza [redacted]
Sent: Wednesday, November 4, 2020 2:52 PM
To: Heather Glaser <hglaser@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; [redacted] Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>
Cc: [redacted]
Subject: Iten 4A Nov 5 comment

Council Members

A short comment on Item 4A Short Term Rentals

PLEASE, PLEASE , PLEASE , PLEASE.....

DO NOT CHANGE OR AMEND THE SHORT TERM RENTAL ITEM IN ANY WAY. THE COMMUNITY HAS SPOKEN AND YOU HAVE SPOKEN OVER A PERIOD OF MANY YEARS. THIS A SETTLED COMPROMISE AND DOES NOT NEED TO BE CHANGED AND/OR OPENED UP FOR FURTHER CHANGES.

THIS NEEDS TO BE TAKEN CARE OF RIGHT NOW.

JOHN MAZZA

FILED
City of Malibu
Office of the City Clerk
Meeting Date 11/5/20
Agenda Item # 4A

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 11/5/20 Agenda File

Kelsey Pettijohn

Subject: Item 4.A. – Hosted Short-Term Rental Ordinance



From: K Hill [redacted]
Sent: Tuesday, October 20, 2020 2:16 PM
To: Rick Mullen <rmullen@malibucity.org>; Skylar Peak <speak@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Heather Glaser <hglaser@malibucity.org>
Subject: Item 4.A. – Hosted Short-Term Rental Ordinance

Dear Council members,

Right after your last action on the STR Hosting Ordinance over a month ago, I wrote to you about one unforeseen consequence. I suggested that you could ask staff to address it before you brought the item back. But I see in the staff report that wasn't done. There's still time to fix it, so I'll reiterate the problem here.

In allowing the Designated Operator (DO) exception for a "cumulative" two months of the year, you were talking about people who might go on vacation a few times a year (the Drummond pitch). Your intent was to carve out a limited exception, but you allowed quite a bit. Many rentals are typically occupied 2-3 nights per week, for long "getaway" weekends. As you wrote it, an owner could serve those same 2-3 night rentals throughout the high season, e.g., over four months, 60 nights is an average of 3.5 nights per week. Or, over six months (26 weeks), 60 nights is still more than 2 nights per week. So, in effect, your "limited exception" for DO's allows them almost as much as most hosts would ever want them.

The solution, to preserve your intent, might be to limit those 60 days to a maximum of, say, three discrete blocks. So you could do 1 vacation of 60 days, or up to 3 vacations totaling 60 days (e.g., 2 three-week vacations plus 1 eighteen-day vacation).

You coud still clarify your intent to staff and have them write a clause into the draft for second reading, so as not to delay the process. There's some legal provision that allows minor revisions to be made by staff between first and second reading. As precedent, I recall catching a similar unintended effect in the Dark Sky ordinance; in that instance, a Council member passed my comment to staff and they did correct it in time to bring it as part of the second reading.

Best,
Kraig

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FILED
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Meeting Date 10/26/2020
Agenda Item # 4A

Heather Glaser

From: K Hill [redacted]
Sent: Monday, October 26, 2020 12:46 AM
To: Rick Mullen; Skylar Peak; Jefferson Wagner; Karen Farrer; Mikke Pierson; Heather Glaser
Subject: Item 4.A. – Hosted Short-Term Rental Ordinance

Dear Council members,

There's an oddity in the language of both the LCP and MMC versions of the Hosted Ordinance that should be addressed. The definition of "Designated Operator" (DO) is written such that it sounds like the need for a DO could be at the discretion of the owner:

"DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is **required by the owner** of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental."

Notwithstanding that this might be *implicitly* resolved by language elsewhere in the ordinance, make it explicit to avoid potential confusion: the definition should reflect that the presence of the DO is REQURED BY THE ORDINANCE in all instances when the owner is not required to be onsite, namely when the owner is taking advantage of the limited exception when they themself are permitted to be away.

Speaking of that exception for owners who go on vacation, you'll recall my notes about how allowing 60 days CUMULATIVE would allow many operators to continue business as usual for much of the busy season, i.e., renting for 2-3 nights per week. I suggested that it be allocated in no more than 2 or 3 discrete blocks, corresponding to the number of serious vacations a homeowner might take in a year.

In addition, when the Council decided to carve out that exception, the proposal that it should be specifically 60 days was made arbitrarily, towards the end of a long night, and was discussed little, if at all. A number like 30 days or 42 days (six weeks) would be more in keeping with homeowners actual vacation behavior, and be less susceptible to being "gamed" by owners who would have DO's present more often than they themselves would be. (As an aside, if you can afford the luxury of taking 60 days of vacation away from home per year, are you really going to be relying on the income from having short-term strangers in your house or guest house?) It's unnecessary slack; tighten it up. ;-)

Best,
Kraig

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Oct 21 2020
CITY CLERKS OFFICE
CITY OF MALIBU

Kelsey Pettijohn

Subject: short term rental issues

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/26/20
Agenda Item # 4A

From [redacted]
Sent: Tuesday, October 20, 2020 9:27 AM
To: Mikke Pierson <mpierson@malibucity.org>
Cc: 'Ani Dermenjian' [redacted]
Subject: short term rental issues

Dear Mayor Pierson, My name is Lisa Newman and I have been the owner of a townhouse at 20538 Pacific Coast Highway, Malibu 90265 since 1970. I currently have my house listed for long term rentals with Ani Dermenjian of Douglas Elliman Real estate. Ani has been my realtor and friend for over 20 years. The property adjacent to me at 20536 Pacific Coast Highway, with whom I share a common entry off the highway, a common walkway and a common staircase to the beach below became a short term rental in August, 2019. Some of the negative issues I have had to deal with as a result of this short term rental situation are outlined below:

Loss of income and financial damage due to the refusal of prospective tenants to lease my property because it is next to a short term rental

My realtor recently had two showings to prospective tenants who were interested in renting my house for a year. Both of them declined because during the showing there were many people on the adjacent deck drinking and making a lot of noise so in effect, I lost two very good prospects

Nuisance issues with short term renters involving noise, disturbances, parties and more recently a wedding party being held without an event permit

There is often loud noise, drinking and partying til late hours – this is against house rules but not enforced

When renters have children with them, the children often use the common deck as a play area bouncing balls off the walls and making noise

Failure of short term rental to supervise, manage and oversee the number of persons occupying the property

People who rent the unit often invite others out to “party” so the place is often inhabited by more than 10 to 15 people

Failure of short term renters to secure gate to common corridor

This is a serious security issue and my property is open to any and all intruders

Frequent parking issues with short term renters

These renters have parked in front of either my driveway or the driveway just south of the rental unit blocking access to our garages – we have had to consider

Calling the sheriff to have the vehicles towed

Unauthorized use of utilities by short term renters

My foot shower which is attached to my side of the stairway (with a sign indicating it is for use only by residents of 20538 PCH) is used

By the short term tenants – using my water for which I am billed as well as my appliance

Maintenance of common areas

The common walkway and stairway is never cleaned by the rental unit cleaning crew and I am the only one who maintains this area

Potential liability exposure due to short term renters use and access to common corridor between units and stairway to the beach

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To summarize, the peace and enjoyment of my property is being infringed upon by this continuous rental situation. In addition, my ability to rent my property as well as the decline in the value of my property is an issue affecting my income.

The city of Malibu has recently signed an ordinance which comports with that passed by the city of Santa Monica stating that all short term rentals must have an owner on the premises during the rental period. I respectfully request that you submit this letter to
The City Council and strongly suggest that this ordinance be passed.

Thank you, Lisa Newman

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Laurence Stuppy II
[redacted]

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Office of the City Clerk
Meeting Date 10/26/2020
Agenda Item # 4A

October 26, 2020

City Council
C/o Patricia Salazar, Senior Administrative Analyst
psalazar@malibucity.org
CityCouncil@MalibuCity.org
23825 Stuart Ranch Road
Malibu, CA 90265

RE: Short Term Rental [STR] - [redacted]
Request to have our property "Grandfathered in", or "waived" from STR

To the Honorable Mayor and City Council Members,

The city council should be ashamed with the STR ordinance. It does damage to the honest homeowners and does little to correct the problems it was designed to solve. I am extremely disappointed with the Malibu City Council. Our concerns have been "completely ignored".

Sincerely,

_____

Laurence Stuppy II
Manager, Tutu's Treat, LLC
Under the Stuppy Family Trust
[redacted]

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/26/2020 Agenda File

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HUESTON HENNIGAN LLP

October 25, 2020

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/26/2020
Agenda Item # 4A

VIA E-MAIL

Hon. Mikke Pierson, Mayor
Members of the City Council
City of Malibu

Re: October 26, 2020 City Council Meeting - Agenda Item 4.A. – Objections to Proposed Short-Term Rental Regulations – Hosted Short-Term Rental Ordinance and Local Coastal Program Amendment

Dear Mayor Pierson and Members of the City Council:

This firm represents MB Surf (DE), LLC, owner of the property located at 22648 Pacific Coast Highway, and MB Sand (DE), LLC, owner of the property located at 22640 Pacific Coast Highway, in the City of Malibu. I write to convey and reiterate objections to proposed Ordinance No. 472 and Resolution No. 20-51 regarding short-term rental ("STR") regulations.

We previously wrote you on August 10, 2020, and September 13, 2020, regarding objections to and legal deficiencies in the Council's proposed actions with respect to STR regulations, nearly all of which apply with equal or greater force to proposed Ordinance No. 472 and Resolution No. 20-51. Those letters are attached hereto as Exhibits A and B, respectively, and incorporated herein by reference.

In addition to the grounds previously articulated, we object to the adoption of the proposed ordinance and resolution because they are inconsistent with the policies of the California Coastal Act, and because the City has failed to conduct the environmental review required by the California Environmental Quality Act ("CEQA"), the Coastal Act, and the City of Malibu's certified Local Coastal Program ("LCP").

1. The Proposed LCP Amendment and Ordinance Are Inconsistent with the Policies of the Coastal Act

The City has attempted to address one legal defect we identified in our August 10 letter, namely the failure of the prior version of the proposed ordinance to require an LCP amendment before it may take effect. (*See* Ex. B at 2-4). We nonetheless object to and disagree with the findings in proposed Resolution No. 20-51 that the amendment and ordinance are consistent with the policies of the Coastal Act. (*See* Resolution No. 20-51, Sec. 3). Contrary to the findings contained in the proposed Resolution, the amendment and proposed Ordinance *will* result in the reduction or removal of "lower cost opportunities for visitor-serving accommodations…." (*Id.*). As we explained in our August 10 letter, the City's staff report conceded that the proposed regulations and restrictions on STRs would *reduce* the number of STRs and thereby the associated transit occupancy tax. (*See* Ex. B at 3 (quoting Agenda Report at 1)). As we wrote then:

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> The Coastal Act specifies that cities shall protect and encourage lower cost visitor and recreational facilities including hotels, motels "or other similar visitor-serving facility located on either public or private lands." Pub. Res. Code § 30213. The Malibu LCP expressly incorporates and adopts this policy. *See* LUP, Ch. II.D. Property rentals in Malibu are generally more expensive than in other cities, and STRs provide one of the least expensive forms of overnight accommodation available in Malibu. For example, a moderate-income family can afford to vacation in Malibu by staying at a short-term rental that costs just a few hundred dollars per night, even if they could not afford to purchase a home or pay the long-term rental rates required to be full-time residents.
>
> The small number of conventional hotel and motel rooms in Malibu, which we understand to be roughly 100 total rooms *for the entire City*, makes the continued availability of STRs in the City's residential zones vitally important. According to the June 2018 Council Agenda Report, more than 400 private homes and apartments in the City are being utilized at least part of the time as STRs. Reducing this critical supply of overnight visitor accommodations would not be consistent with the Coastal Act or the City's LCP, and an ordinance enacted in violation of the Coastal Act and LCP is invalid and subject to challenge.

Ex. B at 2-3.

2. The City Has Failed to Conduct the Environmental Review Required by CEQA, the Coastal Act and the City's LCP

We further object to proposed Ordinance No. 472 and Resolution No. 20-51 because the City has failed to conduct the environmental review required by CEQA, the Coastal Act and the LCP. The LCP amendment process is governed by a state-certified regulatory program under Section 21080.5 of the Public Resources Code ("PRC") and Sections 15250-15253 of the state's CEQA Guidelines. Accordingly, some of the regular CEQA rules and procedures do not apply. (*See* PRC §§ 21080.5, 21080.9). The existence of a certified regulatory program does not exempt a project from environmental review. Rather, it merely substitutes the alternative environmental review procedures of Section 21080.5 of the PRC and Sections 15250-15253 of the CEQA Guidelines in place of regular CEQA requirements for an initial study, negative declaration or EIR. Section 21080.9 of the PRC provides in relevant part:

> "[CEQA] shall not apply to activities and approvals by any local government … as necessary for the preparation and adoption of a local coastal program or long-range land use development plan pursuant to Division 20 (commencing with Section 30000); ***provided, however, that certification of a local coastal program or long-range land use development plan by the California Coastal Commission pursuant to Chapter 6 (commencing with Section 30500) of Division 20 shall be subject to the requirements of this division. For the purpose of Section 21080.5, a certified local coastal program or long-range land use development plan constitutes a plan for use in the California Coastal Commission's regulatory program****."*

(PRC § 21080.9 (emphasis added)).

Accordingly, the Coastal Commission and not the City is the ultimate decisionmaker under the special CEQA review provisions that apply to a certified regulatory program under Section 21080.5(d)(2).[1] The fact that the Coastal Commission makes the ultimate decision, however, does not mean that the City plays no role in the environmental review. In fact, the City is *obligated*—not by CEQA, but by the Coastal Act and the City's own adopted LCP—to prepare and hold a hearing on the environmental review documentation that will be used by the Coastal Commission to fulfill the Commission's CEQA responsibilities when the proposed amendment proceeds on to the Commission. Section 30510 of the Coastal Act states:

> Consistent with this chapter, a proposed local coastal program may be submitted to the commission, if both of the following are met:
>
> (a) It is submitted pursuant to a resolution adopted by the local government, after public hearing, that certifies the local coastal program is intended to be carried out in a manner fully in conformity with this division.
>
> (b) ***It contains, in accordance with guidelines established by the commission, materials sufficient for a thorough and complete review***.

(PRC § 30510 (emphasis added)). Section 13552 of the California Coastal Commission regulations sets forth the required contents of a city's application to the Commission for certification of an LCP amendment, including in part:

> The LCP or LRDP amendment submittal shall include: …
>
> (e) *Any environmental review documents prepared for all or any portion of the amendment to the LCP* or LRDP.

14 CCR § 13552 (emphasis added)).

[1]Section 21080.5(d)(2) of the PRC provides: "The rules and regulations adopted by the administering agency for the regulatory program do all of the following:

(A) Require that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen a significant adverse effect that the activity may have on the environment.

(B) Include guidelines for the orderly evaluation of proposed activities and the preparation of the plan or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program.

(C) Require the administering agency to consult with all public agencies that have jurisdiction, by law, with respect to the proposed activity.

(D) Require that final action on the proposed activity include the written responses of the issuing authority to significant environmental points raised during the evaluation process.

(E) Require the filing of a notice of the decision by the administering agency on the proposed activity with the Secretary of the Resources Agency. Those notices shall be available for public inspection, and a list of the notices shall be posted on a weekly basis in the Office of the Resources Agency. Each list shall remain posted for a period of 30 days.

(F) Require notice of the filing of the plan or other written documentation to be made to the public and to a person who requests, in writing, notification. The notification shall be made in a manner that will provide the public or a person requesting notification with sufficient time to review and comment on the filing."

This requirement is echoed and amplified in the City's own adopted LCP Local Implementation Plan ("LIP"), which states that every application for an LCP amendment (whether initiated by City Council resolution or otherwise) shall include, among other things: "*Any environmental review documents, pursuant to CEQA, required for all or any portion of the amendment to the LCP*." (City of Malibu LCP LIP §19.2.1(B)(6) (emphasis added)). These materials must be made available for public review at least six weeks prior to any final action by the City. (Id. §19.3.1).

The special CEQA requirements applicable to the LCP amendment process under PRC Sections 21080.5 and 21080.9 were enacted long before the City of Malibu LCP LIP was adopted in 2002. (*See* Stats. 1972, Ch. 1154; Stats. 1975, Ch. 1187; Stats 1979, Ch. 961). The City and the Coastal Commission were thus both aware that the Commission would be the lead agency for CEQA purposes when they approved the Malibu LCP. Accordingly, the most reasonable interpretation of the requirement that the City prepare all necessary CEQA and environmental documents for the LCP amendment as part of the initial application is that *the City* must prepare and review such documents—not for its own CEQA compliance, but for the CEQA process and determinations to be made subsequently by the Coastal Commission.

This interpretation is consistent with *Ross v. California Coastal Commission, et al*. (2011) 199 Cal. App. 4th 900, a decision involving another amendment to Malibu's LCP. The Court of Appeal in *Ross* upheld the validity of an LCP amendment that reduced minimum lot widths in order to facilitate a residential subdivision on Broad Beach. Plaintiffs challenged the amendment based on alleged CEQA violations, illegal "spot" zoning, and conflict with other adopted City plans and policies. Citing PRC Sections 21080.5 and 21080.9, the court noted that the Coastal Commission and not the City was the "lead agency" for purposes of CEQA compliance, and that the special CEQA rules applicable to certified regulatory programs under those sections would govern the Commission's review. (*Id*. at 940). Although the Coastal Commission acted as the lead agency, **the Commission's decision relied significantly on environmental documentation prepared and provided by the City**. Before submitting the proposed LCP amendment to the Commission, the City prepared a draft mitigated negative declaration and evaluated potential impacts to environmentally sensitive habitat areas. (*Id.* at 910). The Commission relied on the City's responses to public comments, and the City submitted an alternatives analysis to the Commission. (*Id*. at 941-42). The *Ross* decision held that these submittals **by the City**, together with the record of proceedings before the Commission, satisfied the alternative CEQA requirements of PRC Section 21080.5.[2]

As reflected in this caselaw, the relevant statutes, guidelines and the City's own LCP, the City is obligated to prepare and make available for public review substantial environmental analysis and findings that are missing from proposed Ordinance No. 472 and Resolution No. 20-51, and the associated record of proceedings. As summarized in *Ross,* the required environmental findings and analysis include:

> "… the orderly evaluation of proposed activities and the preparation of the plan or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program, [¶] ... written responses of the issuing authority to significant environmental points raised during the evaluation process. [¶] … a description of the proposed activity with alternatives to the

[2] A similar record was present in *Santa Barbara County Flower and Nursery Growers' Association v. County of Santa Barbara* (2004) 121 Cal. App. 4th 864, in which the county prepared a full EIR in connection with an LCP amendment before submitting it to the Coastal Commission. This likewise reflected that the city or county initiating an LCP amendment typically prepares and submits the environmental documentation for the Coastal Commission's LCP certification decision.

> activity, and mitigation measures to minimize any significant adverse effect on the environment of the activity [¶] … available for a reasonable time for review and comment by other public agencies and the general public. [¶] Further, Guidelines section 15252, subdivision (a) provides: '(a) The document used as a substitute for an [environmental impact report] or negative declaration in a certified program shall include at least the following items: [¶] (1) A description of the proposed activity, and [¶] (2) Either: [¶] (A) Alternatives to the activity and mitigation measures to avoid or reduce any significant or potentially significant effects that the project might have on the environment, or [¶] (B) A statement that the agency's review of the project showed that the project would not have any significant or potentially significant effects on the environment and therefore no alternatives or mitigation measures are proposed to avoid or reduce any significant effects on the environment. This statement shall be supported by a checklist or other documentation to show the possible effects that the agency examined in reaching this conclusion.'"

(199 Cal. App. 4th at 932-933 (quoting Section 21080.5 of the PRC and Section 15252 of the State CEQA Guidelines)).

None of the required environmental analysis, nor facts sufficient to conduct such analysis, appears in the current record of proceedings with respect to the proposed ordinance and resolution. Section 2 of Resolution No. 20-51, entitled "Environmental Review," contains a boilerplate recitation that CEQA does not apply to this LCP amendment under Section 21080.9 of the PRC. Section 8 of Ordinance No. 472 includes the same statement, but also asserts that the ordinance is exempt from CEQA, specifically under CEQA Guidelines Sections 10561(b)(3) (projects having no potential for causing a significant effect), 15301 (Existing Facilities) and 15321 (Enforcement Actions by Regulatory Agencies). No initial study checklist or other documentation is provided to support the claimed exemptions. (*See* Res. No. 20-51, Sec. 2).

In fact, none of these claimed exemptions apply to the proposed actions. The STR regulations that would be imposed by Ordinance No. 472 and Resolution No. 20-51 will have *significant* environmental effects. The definition of "development" under the Coastal Act includes a "change in the density or intensity of use of land" and a "change in the intensity of use of water, or of access thereto." (PRC § 30106). "Development" is interpreted broadly. For example, in *Greenfield v. Mandalay Shores Community Ass'n (*2018) 21 Cal. App. 5th 896, the Court of Appeal held that a ban on STRs by a homeowner's association in a beachfront area "change[d] the intensity of use and access to single family residences in the ... Coastal Zone" and therefore constituted "development" under PRC Section 30601. (*Id*. at 900-901).

The proposed STR regulations that would be enacted through Ordinance No. 472 and Resolution No. 20-51 will similarly have numerous environmental impacts, for example:

- Inconsistency with adopted plans and policies, which constitutes a significant impact under CEQA. The Coastal Act specifies that cities shall protect and encourage lower cost visitor and recreational facilities including hotels, motels "or other similar visitor-serving facility located on either public or private lands." (PRC § 30213). The Malibu LCP expressly incorporates and adopts this policy. (*See* LUP, Ch. II.B). In addition, Policy 5.11 of the LUP states: "Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent uses." As explained above and in our August 10, 2020 letter, the proposed regulations will significantly *reduce* the availability of vital, low-cost visitor serving accommodations. (*See* Ex. B at 2-4).

- Eliminating hundreds of STR units throughout the City will have a growth-inducing impact in the City and neighboring communities, as new hotels seek to take advantage of the reduced availability of short-term rentals in existing housing stock. Indeed, in just the few years since the City first proposed the STR ordinance, at least two new hotel development projects have begun entitlement processes in the City, including the 20-unit Malibu Inn motel project proposed for 22915 PCH (across from the Malibu Pier), and the 39-unit Seaview Hotel at 22729 and 22941 PCH.

- The proposed LCP amendments will also cause a proliferation of new construction of guest houses and accessory dwelling units. The proposed home sharing rules require the host to remain living onsite during the guest stay but allow the host to occupy either the main house or a guest house or accessory unit. Because many guests and hosts prefer not to cohabitate in the same dwelling unit with a stranger, hosts who wish to earn extra income without the nuisance of cohabitation will be highly motivated to add a second unit to their property. The proliferation of second units will create impacts to, among other things, traffic, air pollution, parking, noise, ESHA, loss of view corridors and aesthetics.

Because of these and other environmental impacts that will result from Ordinance No. 472 and Resolution No. 20-51, the CEQA exemptions cited in Section 8 of Ordinance No. 472 do not apply.

In summary, the City has failed to provide the environmental analysis required by Section 19.2.1(B)(6) of the City of Malibu LIP and Section 13552(e) of the Coastal Commission regulations. Before Ordinance No. 472 and Resolution No. 20-51 may be approved, this information must be prepared and circulated for public review at least six weeks prior to any final action by the City. (LIP §19.3.1).

This letter is not intended as a complete or comprehensive statement of all of the legal defects affecting proposed Ordinance No. 472 and Resolution No. 20-51. Rather it and the prior correspondence incorporated by reference in this letter reflect objections and examples of the numerous legal flaws from which the proposed measures suffer, and which will almost certainly lead to costly legal challenges if adopted.

Sincerely,

Marshall A. Camp

cc: Christi Hogin, City Attorney (via e-mail)

EXHIBIT A

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HUESTON HENNIGAN LLP

August 10, 2020

VIA E-MAIL

Hon. Mikke Pierson, Mayor
Members of the City Council
City of Malibu
citycouncil@malibucity.org

Re: Aug. 10, 2020 City Council Meeting - Agenda Item 4.C. – Objections to Proposed Interim Short-Term Rental Ordinance

Dear Mayor Pierson and Members of the City Council:

This firm represents MB Surf (DE), LLC, owner of the property located at 22648 Pacific Coast Highway, and MB Sand (DE), LLC, owner of the property located at 22640 Pacific Coast Highway, in the City of Malibu. I write to convey objections to proposed Ordinance No. 468, the Interim Short-Term Rental Ordinance (the "Proposed Ordinance"), and to highlight numerous legal flaws with the Proposed Ordinance that would render it invalid if enacted.

1. The Ordinance Was Not Properly Reviewed by the Planning Commission.

Pursuant to Government Code sections 65850 and 65853-65857, the City Council may not adopt or amend a zoning ordinance affecting the intensity of use of property unless it has received a written report and recommendation on the proposed ordinance from the Planning Commission. The July 30, 2020 Council Agenda Report (the "Agenda Report") asserts that the Planning Commission reviewed the contents of the Proposed Ordinance on November 20, 2017, and May 7, 2018. 7/30/20 Agenda Report (8-10-20 Council Meeting, Item 4.C.) at 2. The proposal before the Planning Commission at those meetings, however, does not match the Proposed Ordinance before you tonight. For example:

- The zoning amendments presented to the Planning Commission in 2017 and 2018 prohibited short-term rentals ("STRs") in all multifamily properties, except for "home-sharing" by a condo owner who remains in co-occupancy of the unit during the guest stay. By contrast, the Proposed Ordinance now before the Council allows up to two units in a multifamily building to be used as STRs (without "home-sharing") provided the other units in the building are leased for terms of one year or more.

- The zoning amendments presented to Planning Commission in 2017 and 2018 placed no limit on the number of dwelling units that could be owned and rented out as an STR by a single owner, but the Proposed Ordinance states that a separate STR permit is required for each legal lot or condominium unit, and that an individual may not possess more than one active STR permit. *See* Agenda Report, Attach. 1 (Proposed Ordinance) § 17.55.010.

- The zoning amendments presented to Planning Commission in 2017 and 2018 contained no seasonal limit on STRs, whereas the Proposed Ordinance prohibits STRs under "non-primary resident permits" from October 1 through March 31 annually.

California law is clear: When considering zoning amendments, "*[a]ny modification* of the proposed ordinance or amendment by the legislative body not previously considered by the planning commission during its hearing, *shall first be referred to the planning commission for report and recommendation*." Govt. Code § 65857 (emphasis added). That has not happened, and the Proposed Ordinance must therefore be referred to the Planning Commission for report and recommendation before it may be considered by the Council.

Moreover, even if it had been properly reviewed by the Planning Commission, the Proposed Ordinance suffers from numerous legal defects that would render it invalid if enacted.

2. The Ordinance Requires a Local Coastal Program (LCP) Amendment and Approval by the California Coastal Commission.

The Proposed Ordinance is invalid under Malibu's Local Coastal Program ("LCP") and would violate the Coastal Act if enacted. Indeed, the City is *currently pursuing* an LCP amendment, underscoring that the Proposed Ordinance represents an unlawful effort to bypass the requirements of the Coastal Act and enact an ordinance in violation of the LCP.

Pursuant to the California Coastal Act of 1976, the purpose of an LCP is to define "a local government's land use plans, zoning ordinances, zoning district maps, and, within sensitive coastal resources areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of [the Coastal Act] at the local level." Pub. Res. Code § 30108.6. The Land Use Plan ("LUP") portion of the LCP is defined as "the relevant portion of a local government's general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions. *Id*. § 30108.5. Malibu's LCP includes both an LUP and a set of implementing rules and regulations designated as the Local Implementation Plan ("LIP"). The LIP sets forth specific land use and development regulations that largely mirror the City's zoning code.

Uses permitted in the Coastal Zone cannot be changed by the City without an amendment to the LCP. As the Malibu LCP states: "Any amendments to the certified LCP will require review and approval by the Coastal Commission prior to becoming effective." LUP, Ch. I.C.

The Coastal Act specifies that cities shall protect and encourage lower cost visitor and recreational facilities including hotels, motels "or other similar visitor-serving facility located on either public or private lands." Pub. Res. Code § 30213. The Malibu LCP expressly incorporates and adopts this policy. *See* LUP, Ch. II.D. Property rentals in Malibu are generally more expensive than in other cities, and STRs provide one of the least expensive forms of overnight accommodation available in Malibu. For example, a moderate-income family can afford to vacation in Malibu by staying at a short-term rental that costs just a few hundred dollars per night, even if they could not afford to purchase a home or pay the long-term rental rates required to be full-time residents.

The small number of conventional hotel and motel rooms in Malibu, which we understand to be roughly 100 total rooms *for the entire City*, makes the continued availability of STRs in the City's residential zones vitally important. According to the June 2018 Council Agenda Report, more than 400 private homes and apartments in the City are being utilized at least part of the time as STRs. Reducing this critical supply of overnight visitor accommodations would not be consistent with the Coastal Act or the City's LCP, and an ordinance enacted in violation of the Coastal Act and LCP is invalid and subject to challenge.

The Agenda Report also asserts that no LCP amendment is required because the ordinance "does not change the uses in the City…." Agenda Report at 6. This is clearly untrue. It is the entire premise of the Proposed Ordinance that "short-term rental of property" is a specific type of use with specific impacts, and that a new set of restrictions and permits are required to regulate that use. *See, e.g.*, Prop. Ordinance at Section 1 (Recitals). The Proposed Ordinance reflects numerous such restrictions and regulations. For example, it would impose seasonal limitations on "non primary resident" STRs, whereas year-round rentals are allowed under current law. *See* Prop. Ordinance § 17.55.040(B). The Proposed Ordinance would also limit STRs to at most two per multifamily building so long as all other units are long-term rentals, whereas current law allows STRs in multifamily properties (condos and apartments) without limitation as to the number of STR units. *See id*. § 17.55.040(C).

The Agenda Report acknowledges that these and other restrictions contained in the Proposed Ordinance will reduce the number of STRs available to visitors and thereby "reduce the [transit occupancy tax] collected from short-term residential rentals…." Agenda Report at 1. It is thus beyond serious dispute that the Proposed Ordinance is intended to define and regulate a particular type of land use, and that it is expected to reduce the extent of such use in the City below current levels. This clearly constitutes a "change in the uses in the City."

Remarkably, in an effort to support the assertion that no LCP amendment is required, the Agenda Report points to a nearly two year-old letter from Coastal Commission staff, sent in September 2018 in relation to an earlier version of the proposed ordinance. *See* 7/30/20 Council Agenda Report (Meeting 8-10-20, Item 4.C.) ("Agenda Report") at 6 & Attach. 2. The September 2018 letter states in part:

> [C]ommission staff views the City's proposed amendment as a supportable effort to provide for some regulatory controls and management provisions for short term rentals. However, we believe that vacation rental regulations in the coastal zone must occur within the context of the City's LCP. We encourage the City to submit an LCP amendment to the Commission that includes policies and provisions that reflects the subject MMC amendment regarding short-term rentals. We are happy to coordinate with City Staff and provide comments on specific LCP amendment language once it is developed.

Id. The Agenda Report quotes only part of the first sentence of this paragraph, apparently to attempt to imply that Commission staff endorsed the notion that a short-term rental ordinance could be enacted without an LCP amendment. *See* Agenda Report at 6. The Agenda Report omits the portion of this paragraph beginning with "However," which makes clear that "vacation rental regulations in the coastal zone ***must occur within the context of the City's LCP***," and which expressly "encourage[s] the City to ***submit an LCP amendment to the Commission***…." *Id*. at Attach. 2 (emphasis added).

The Proposed Ordinance is clearly inconsistent with the City's current LCP and with the Coastal Act, and its enactment prior to the approval of an LCP amendment would render it invalid.

3. The Proposed Ordinance Violates Clearly Established Land Use Law.

The Proposed Ordinance is also invalid because it violates clearly established land use law by relying on permits that are conditioned on the identity of the applicant rather than the use of the land, and because the permits cannot be transferred or assigned. The Government Code provides that "[n]o local government body, or any agency thereof, may condition the issuance of any building or use permit or zone variance on … [t]he dedication of land for any purpose not reasonably related to the use of the property for which the variance, building, or use permit is requested." Govt. Code § 65909. Although permits authorizing a particular use of land may include conditions, the conditions must "relate to the property and not to the particular applicant." *Sounhein v. City of San Dimas* (1996) 47 Cal.App.4th 1181, 1187 (citing *Anza Parking Corp. v. City of Burlingame* (1987) 195 Cal.App.3d 855, 858). *Id*. Moreover, a permit allowing for the "use of property in a particular manner is not personal to the owner at the time of the grant, but is available to any subsequent owner…." *Cohn v. Cty. Bd. of Sup'rs of Los Angeles Cty*. (1955) 135 Cal. App. 2d 180, 184. In other words, such permits must "run with the land[.]" *Cty. of Imperial v. McDougal* (1977) 19 Cal. 3d 505, 510; *accord Sounhein*, 47 Cal.App.4th at 1187; *Anza Parking Corp*., 195 Cal.App.3d at 858.

These are precisely the same bedrock land use principles that led to the invalidation of the formula retail ordinance enacted by the City as part of "Measure R." In that case, the Court of Appeal held in part that the formula retail ordinance was invalid because it relied on permits that depended on "the character of the permittee or applicant rather than on the use of the land." *The Park at Cross Creek, LLC v. City of Malibu* (2017) 12 Cal.App.5th 1196, 1210. The ordinance was also invalid because it restricted the transfer or assignment of the permits, "which is precisely what *Anza* and *Sounhein* held was improper." *Id*. at 1210.

The Proposed Ordinance suffers from exactly the same flaws. It expressly relies on permits that depend on the identity of the permittee rather than the nature of the use. *See, e.g*., Proposed Ordinance § 17.55.040(A-C) (specifying varying limitations for STR permits based on whether the property is the permittee's "primary residence"), § 17.55.010(A) ("An individual may not possess more than one active short-term rental permit."), § 17.55.040 ("Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit."), § 17.55.010(C)(11) (requiring an applicant for a "primary resident short-term permit" to submit "proof of [the applicant's] primary residence, and attestation that the location is the applicant's primary residence…."). In addition, the Proposed Ordinance prohibits transfer or assignment of the contemplated permits such that they do not "run with the land." *See id*. § 17.55.010(H) ("A short-term rental permit may not be assigned or transferred to another person."). Permits that depend on conditions particular to the identity of the permittee rather than the use of the property, and which do not run with the land, are invalid.

Although Measure R's formula retail ordinance utilized a "conditional use permit" subject to review and approval by the Planning Commission, whereas the Proposed Ordinance employs a non-specific "permit" subject to review and approval by "the City Manager or his/her designee," these are distinctions without a difference for purposes of the rules above. As the Court of Appeal explained in *Sonheim*, a conditional or special use permit is simply an "administrative permission for uses not allowed as a matter of right in a zone, but subject to approval." 47 Cal. App. 4th at 1187 (citing Cal. Zoning Practice (Cont.Ed.Bar 1996) Types of Zoning Relief, § 7.64, p. 299). That is exactly what the Proposed Ordinance would do: define a particular use—i.e., "short-term rental"—that may not be made as a matter of right, but rather only pursuant

to a special permit authorizing such use. Moreover, the rules described above do not depend on the precise type of permit or approval, but instead reflect the general principle that "'zoning conditions and restrictions are designed to regulate the land itself and its use and not the person who owns or operates the premises by whom such use is to be exercised.'" *Anza Parking Corp*., 195 Cal. App. 3d at 859 (quoting *Vlahos Realty Co. v. Little Boar's Head Dist*. (1958) 101 N.H. 460, 463). Accordingly, just like the formula retail ordinance invalidated in the Measure R case, the Proposed Ordinance is "contrary to well-established principles" of California law and would be invalid if enacted.

4. The Ordinance Constitutes an Unreasonable Restraint on Alienation.

The Proposed Ordinance also constitutes an invalid restraint on alienation. Under California law, "[c]onditions restraining alienation, when repugnant to the interest created, are void." Civ. Code § 711. In determining whether restrictions on the use of a property are reasonable and therefore valid, courts consider: "(1) whether the reason for [the restriction] is rationally related to the protection, preservation or proper operation of the property and the purposes of the Association as set forth in its governing instruments and (2) whether the power [to impose the restriction] was exercised in a fair and nondiscriminatory manner." *Laguna Royale Owners Assn. v. Darger* (1981) 119 Cal.App.3d 670, 684.

The Proposed Ordinance fails both prongs of the legal test. First, the rational relationship test is flunked by virtue of the conflict between the Proposed Ordinance and the City's LCP (discussed above). Unless the LCP is amended, no measure that significantly reduces the City's primary supply of overnight visitor accommodations can be rationally related to the City's policies. Second, the second prong is failed because the Proposed Ordinance unfairly discriminates in numerous ways, including between "primary residents" and other permittees, and between different types of multifamily properties (discussed below). This inconsistent and discriminatory application of the City's power independently renders the Proposed Ordinance invalid as an unreasonable restraint on alienation.

5. The Ordinance is Also Invalid Under Numerous Other Provisions of Federal and State Law.

Various provisions of the Proposed Ordinance are also very likely invalid under numerous provisions of state and federal constitutional and land use law. For example, the Agenda Report acknowledges that the Proposed Ordinance is intended to and does discriminate between permittees based on various grounds, including whether a permittee is a "primary resident" of a permitted building. *See, e.g.*, Agenda Report at 3 ("In general, the permit requirements and permissions proposed are stricter for non-primary resident permits and multifamily permits than for primary residents…."); *id*. at 4 ("The ordinance places additional restrictions on non-primary resident STR permits and on multifamily STR permits … Non-primary resident permits would only allow the short-term rental of property between April 1 and September 30," "Multifamily permits would allow a maximum of two units to be rented on a multifamily property (but only if all other units are rented on a long-term basis)," "Non-primary resident permits and multifamily permits can be revoked or denied for two citations/violations instead of three[.]"). In addition, the Proposed Ordinance discriminates arbitrarily among multifamily properties, limiting apartment buildings to a maximum of two STR units regardless of the building size and total unit count, while allowing an unlimited number of STRs in condominium buildings. *See id*. § 17.55.040(B).

The Report offers no factual support for this discriminatory treatment of "primary resident" permittees versus "non-primary residents," condo versus apartment buildings, or otherwise. Indeed, it is hard to even imagine how, for example, imposing seasonal restrictions on "non-primary resident permits" but not on

"primary resident permits," or allowing the former to be revoked based on fewer "citations/violations" than the latter, or authorizing condos to be 100% occupied by STRs while limiting apartment buildings to two units irrespective of size, can reflect anything other than discrimination in violation of due process, equal protection and other federal and state constitutional provisions.

The Proposed Ordinance also contains numerous other provisions that appear to run afoul of federal law, state law or both. Simply by way of example:

- The rules governing multifamily properties allow up to two units in a building, but only so long as all other units are rented for a period of one year or more. *See* Prop. Ordnance § 17.55.040(C). This does not account for periods of vacancy between tenancies when some units may not be rented, or when units are vacant due to the need for repairs, having been rendered uninhabitable by casualty loss, etc. This constitutes an unreasonable and therefore unlawful restraint on alienation.

- The Proposed Ordinance imposes an occupancy limit of two persons times the number of bedrooms plus two other persons, but does not apply to other renters or homeowners, in potential violation of California's fair housing laws, the Unruh Act, and other statutory and constitutional provisions.

- The Proposed Ordinance requires each owner to "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 was rented immediately upon request by the City Manager or her/his designee for purposes of inspection or audit." Prop. Ordinance § 17.55.020(A)(7). This unchecked and unlimited infringement of the privacy rights of owners and occupants is unconstitutional, providing not even the minimal protections afforded in the inspection warrant statute for use by building and zoning code inspectors who have adequate cause to seek an inspection warrant from the courts. *See* Code Civ. Proc. §§ 1822.5 et seq.

This letter is not intended as a complete or comprehensive statement of all of the legal defects affecting the Proposed Ordinance. Rather it is intended to convey objections to the Proposed Ordinance as well as examples of the numerous legal flaws from which it suffers, and which will almost certainly lead to costly legal challenges if the Proposed Ordinance is enacted.

Sincerely,

Marshall A. Camp

cc: Christi Hogin, City Attorney (via e-mail)

EXHIBIT B

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Partner

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Suite 400
Los Angeles, CA 90014

HUESTON HENNIGAN LLP

September 13, 2020

VIA E-MAIL

Hon. Mikke Pierson, Mayor
Members of the City Council
City of Malibu

Re: September 14, 2020 City Council Meeting - Agenda Item 4.A. – Objections to Proposed Short-Term Rental Ordinances

Dear Mayor Pierson and Members of the City Council:

This firm represents MB Surf (DE), LLC, owner of the property located at 22648 Pacific Coast Highway, and MB Sand (DE), LLC, owner of the property located at 22640 Pacific Coast Highway, in the City of Malibu. I write to convey objections to proposed Ordinance Nos. 468 (for interim enforcement) and 472 (for permanent restrictions), and to highlight legal flaws with the proposed ordinances that would render them invalid if enacted.

Please also refer to my previous letter submitted to you on August 10, 2020.

1. The Interim Enforcement Ordinance (No. 468).

My clients support strong code enforcement and the elimination of "party houses" and similar misuse of short-term rental properties. We appreciate the changes made to the proposed text of Ordinance No. 468 by staff subsequent to the August 10, 2020, City Council meeting in order to more narrowly limit the scope of the interim ordinance to matters of enforcement.

The draft "enforcement only" ordinance, however, still contains some unlawful provisions that should be deleted. Our remaining concerns with Ordinance No. 468 include the following:

- Occupancy Limit. Proposed Malibu Municipal Code Sec. 17.55.020(A)(8) imposes on short-term rentals an occupancy limit of two persons times the number of bedrooms plus two other persons. But this limit does not apply to other renters or homeowners, in potential violation of California's fair housing laws, the Unruh Act, and other statutory and constitutional provisions of state law.

- Invasion of Privacy. Proposed Sec. 17.55.020(A)(6) requires each owner to "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 her/his designee for purposes of inspection or audit." This sweeping infringement of the privacy rights of owners and occupants is unconstitutional, providing not even the minimal protections afforded in the inspection warrant

statute for use by building and zoning code inspectors who have adequate cause to seek an inspection warrant from the courts. *See* Code Civ. Proc. §§ 1822.5 et seq.

- Non-transferability. Proposed Sec. 17.55.010(H) provides that "[a] short-term rental permit may not be assigned or transferred to another person." As explained at length in my letter of August 10, 2020, and at further length below, a permit allowing for the "use of property in a particular manner is not personal to the owner at the time of the grant, but is available to any subsequent owner…." *Cohn v. Cty. Bd. of Sup'rs of Los Angeles Cty*. (1955) 135 Cal. App. 2d 180, 184. In other words, such permits must "run with the land[.]" *Cty. of Imperial v. McDougal* (1977) 19 Cal. 3d 505, 510; *accord Sounhein*, 47 Cal.App.4th at 1187; *Anza Parking Corp*., 195 Cal.App.3d at 858.

- Discriminatory Treatment of Owners vs. Renters. Proposed Sec. 17.55.010(A) provides that only an "owner" of property may obtain a short-term rental permit. This arbitrary distinction between owners and renters is discriminatory and without evidentiary basis. (See further discussion below with reference to the permanent ordinance.)

If these four remaining concerns were addressed, our clients would support the adoption of Ordinance No. 468 as an aid to enforcement.

2. The Permanent Ordinance (No. 472).

Staff has corrected one deficient aspect of the proposed "permanent" ordinance, but serious legal defects remain.

As we advocated in our August 10, 2020 letter, staff now recommends that the short-term rental use restrictions be processed via an LCP amendment with Coastal Commission review. That is an important procedural step. Our other objections we raised have not been addressed, however, and we continue to view the proposed permanent ordinance as legally flawed and subject to invalidation if enacted.

a. Inconsistency with Coastal Act Policies.

Proposed Ordinance No. 472 would remove hundreds of currently permitted STRs from the City by, among other provisions: (i) prohibiting the short-term rental of single-family homes and condos that are not the owner's primary residence; (ii) requiring the owner or owner's representative to cohabit with the guest and remain living at the residence throughout the duration of the short-term rental; and (iii) allowing only two units in a multifamily complex to be used as short-term rentals. An analysis by the leading online booking platform Airbnb concluded that fully half the short-term rentals in the City of Malibu would be eliminated by the prior version of this ordinance (considered at the Council August 10, 2020 meeting), under which *both* primary and non-primary resident STRs would have been permitted. (*See* letter to Malibu City Council from John Choi, Airbnb Policy Manager dated August 7, 2020.) The removal of any non-primary resident STRs from this version of the ordinance will undoubtedly cause an even more dramatic reduction in the availability of short-term rentals in Malibu.

The Coastal Act specifies that cities shall protect and encourage lower cost visitor and recreational facilities including hotels, motels "or other similar visitor-serving facility located on either public or private lands." Pub. Res. Code § 30213. The City's LCP expressly incorporates and adopts this policy. *See* LUP, Ch. II.D. Property rentals in Malibu are generally more expensive than in other cities, and STRs provide one of the

least expensive forms of overnight accommodation available in the City. For example, a moderate-income family can afford to vacation in Malibu by staying at a short-term rental that costs just a few hundred dollars per night, whereas few can afford to purchase a home or rent long-term within the City.

The small number of conventional hotel and motel rooms in Malibu, which we understand to be roughly 100 total rooms *for the entire City*, makes the continued availability of STRs in the City's residential zones vitally important. According to the June 2018 Council Agenda Report, more than 400 private homes and apartments in the City are being utilized at least part of the time as STRs. Reducing this critical supply of overnight visitor accommodations would not be consistent with the Coastal Act or the City's LCP, and an ordinance enacted in violation of the Coastal Act and LCP is invalid and subject to challenge.

b. Non-transferability of Permits.

Proposed Ordinance No. 472 also violates clearly established land use law by relying on permits that are conditioned on the identity of the applicant rather than the use of the land, and because the permits cannot be transferred or assigned. The Government Code provides that "[n]o local government body, or any agency thereof, may condition the issuance of any building or use permit or zone variance on …[t]he dedication of land for any purpose not reasonably related to the use of the property for which the variance, building, or use permit is requested." Govt. Code § 65909. Although permits authorizing a particular use of land may include conditions, the conditions must "relate to the property and not to the particular applicant." *Sounhein v. City of San Dimas* (1996) 47 Cal.App.4th 1181, 1187 (citing *Anza Parking Corp. v. City of Burlingame* (1987) 195 Cal.App.3d 855, 858). *Id*. Moreover, a permit allowing for the "use of property in a particular manner is not personal to the owner at the time of the grant, but is available to any subsequent owner…." *Cohn v. Cty. Bd. of Sup'rs of Los Angeles Cty*. (1955) 135 Cal. App. 2d 180, 184. In other words, such permits must "run with the land[.]" *Cty. of Imperial v. McDougal* (1977) 19 Cal. 3d 505, 510; *accord Sounhein*, 47 Cal.App.4th at 1187; *Anza Parking Corp*., 195 Cal.App.3d at 858.

These are precisely the same bedrock land use principles that led to the invalidation of the formula retail ordinance enacted by the City as part of "Measure R." In that case, the Court of Appeal held in part that the formula retail ordinance was invalid because it relied on permits that depended on "the character of the permittee or applicant rather than on the use of the land." *The Park at Cross Creek, LLC v. City of Malibu* (2017) 12 Cal.App.5th 1196, 1210. The ordinance was also invalid because it restricted the transfer or assignment of the permits, "which is precisely what *Anza* and *Sounhein* held was improper." *Id*. at 1210.

Proposed Ordinance No. 472 continues to suffer from exactly the same flaws. It expressly relies on permits that depend on the identity of the permittee rather than the nature of the use. *See, e.g*., § 17.55.040(A) (limiting single-family STR permits to "primary resident owner[s]"), § 17.55.040 ("Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit."), § 17.55.020(D)(14) (requiring an applicant for a "hosted short-term rental permit" to submit "proof of primary residency and attestation that the location is the owner's primary residence"). In addition, the proposed ordinance prohibits transfer or assignment of the contemplated permits such that they do not "run with the land." *See id*. § 17.55.020(J) ("A short-term rental permit may not be assigned or transferred to another person."). Permits that depend on conditions particular to the identity of the permittee rather than the use of the property, and which do not run with the land, are invalid.

Although Measure R's formula retail ordinance utilized a "conditional use permit" subject to review and approval by the Planning Commission, whereas proposed Ordinance No. 472 employs a non-specific

"permit" subject to review and approval by "the City Manager or his/her designee," these are distinctions without a difference for purposes of the rules above. As the Court of Appeal explained in *Sonheim*, a conditional or special use permit is simply an "administrative permission for uses not allowed as a matter of right in a zone, but subject to approval." 47 Cal. App. 4th at 1187 (citing Cal. Zoning Practice (Cont.Ed.Bar 1996) Types of Zoning Relief, § 7.64, p. 299). That is exactly what Ordinance No. 472 would do: define a particular use—i.e., "short-term rental"—that may not be made as a matter of right, but rather only pursuant to a special permit authorizing such use. Moreover, the rules described above do not depend on the precise type of permit or approval, but instead reflect the general principle that "'zoning conditions and restrictions are designed to regulate the land itself and its use and not the person who owns or operates the premises by whom such use is to be exercised.'" *Anza Parking Corp*., 195 Cal. App. 3d at 859 (quoting *Vlahos Realty Co. v. Little Boar's Head Dist*. (1958) 101 N.H. 460, 463). Accordingly, just like the formula retail ordinance invalidated in the Measure R case, Ordinance No. 472 is "contrary to well-established principles" of California law and would be invalid if enacted.

c. The Ordinance Constitutes an Unreasonable Restraint on Alienation.

Proposed Ordinance No. 472 also constitutes an invalid restraint on alienation. Under California law, "[c]onditions restraining alienation, when repugnant to the interest created, are void." Civ. Code § 711. In determining whether restrictions on the use of a property are reasonable and therefore valid, courts consider: "(1) whether the reason for [the restriction] is rationally related to the protection, preservation or proper operation of the property and the purposes of the Association as set forth in its governing instruments and (2) whether the power [to impose the restriction] was exercised in a fair and nondiscriminatory manner." *Laguna Royale Owners Assn. v. Darger* (1981) 119 Cal.App.3d 670, 684.

Ordinance No. 472 fails both prongs of the legal test. First, the rational relationship test is flunked by virtue of the conflict between the proposed ordinance and the City's LCP (discussed above). Unless the LCP is amended, no measure that significantly reduces the City's primary supply of overnight visitor accommodations can be rationally related to the City's policies. Second, the second prong is failed because Ordinance No. 472 unfairly discriminates in numerous ways, including between rental terms of varying lengths (i.e., terms of 30 days or less, 31-364 days, and 365+ days), between "primary residents" and other persons, between natural persons and corporate entities, between owners of one property and owners of multiple properties, between owners and renters, and between different types of multifamily properties (discussed below). For example, under the proposed ordinance:

- Primary residents who own and live in a house or condo may obtain an STR permit, while non-primary residents who own and live in a house or condo may not.
- Primary residents who own and live in a house or condo may obtain an STR permit, while primary residents who rent and live in a house or condo may not.
- Multifamily property owners who lease all other units in a building on terms of one year or more may obtain an STR permit, while multifamily owners who lease units on month-to-month terms may not.
- Natural persons may obtain an STR permit, while trusts, partnerships, LLCs and corporations may not.

This inconsistent and discriminatory application of the City's power renders Ordinance No. 472 invalid as an unreasonable restraint on alienation.

d. The Ordinance is Also Invalid Under Numerous Other Provisions of Federal and State Law.

Neither the draft ordinance nor the agenda report provides factual support for the discriminatory provisions described above. Indeed, it is hard to even imagine how, for example home-sharing STRs conducted by owners of a second home (i.e., a non-primary residence) who live onsite for the duration of the guest stay are any more or less problematic for the community than home-sharing STRs conducted at a "primary residence." Similarly, there does not appear to be any justification for authorizing condos to be 100% occupied by STRs while limiting apartment buildings to two STR units, irrespective of size. Such provisions violate state and federal due process and equal protection, and other constitutional provisions.

Ordinance No. 472 also contains numerous other provisions that appear to run afoul of federal law, state law or both. Simply by way of example:

- The rules governing multifamily properties allow up to two units in a building, but only so long as all other units are rented for a period of one year or more. *See* § 17.55.040(B). This does not account for periods of vacancy between tenancies when some units may not be rented, or when units are vacant due to the need for repairs, having been rendered uninhabitable by casualty loss, etc. This constitutes an unreasonable and therefore unlawful restraint on alienation.

- The ordinance imposes an occupancy limit of two persons times the number of bedrooms plus two other persons, but does not apply to other renters or homeowners, in potential violation of California's fair housing laws, the Unruh Act, and other statutory and constitutional provisions.

- The proposed ordinance requires each owner to "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 her/his designee for purposes of inspection or audit." § 17.55.010(A)(11). This unchecked and unlimited infringement of the privacy rights of owners and occupants is unconstitutional, providing not even the minimal protections afforded in the inspection warrant statute for use by building and zoning code inspectors who have adequate cause to seek an inspection warrant from the courts. *See* Code Civ. Proc. §§ 1822.5 et seq.

This letter is not intended as a complete or comprehensive statement of all of the facts or law relevant to the validity of proposed Ordinance No. 472. Rather, it is intended to convey objections to the proposed ordinance and examples of numerous legal flaws from which it suffers, and which will almost certainly lead to costly legal challenges if it is enacted.

Sincerely,

Marshall A. Camp

cc: Christi Hogin, City Attorney (via e-mail)

Kelsey Pettijohn



Subject: Iten 4A Nov 5 comment

From: MICHAEL LUSTIG [redacted]
Sent: Wednesday, November 4, 2020 5:06 PM
To: John Mazza [redacted]
Cc: Heather Glaser <hglaser@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; [redacted] Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; [redacted]
Subject: Re: Iten 4A Nov 5 comment

Agreed. No more changes.

It's not perfect but it's good.

Time to pass it 5-0

Best,

Michael Lustig

Sent from my iPhone

Please forgive any typos and autocorrect jambalaya. In the future maybe we'll just connect on mindphones and you'll already know what I meant.

FILED
City of Malibu
Office of the City Clerk
Meeting Date 11/5/20
Agenda Item # 4A

On Nov 4, 2020, at 2:51 PM, John Mazza [redacted] wrote:

Council Members

A short comment on Item 4A Short Term Rentals

PLEASE, PLEASE , PLEASE , PLEASE.....

DO NOT CHANGE OR AMEND THE SHORT TERM RENTAL ITEM IN ANY WAY. THE COMMUNITY HAS SPOKEN AND YOU HAVE SPOKEN OVER A PERIOD OF MANY YEARS. THIS A SETTLED COMPROMISE AND DOES NOT NEED TO BE CHANGED AND/OR OPENED UP FOR FURTHER CHANGES.

THIS NEEDS TO BE TAKEN CARE OF RIGHT NOW.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 11/5/20 Agenda File

RECEIVED
Oct 26 2020
CITY CLERKS OFFICE
CITY OF MALIBU

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/26/2020
Agenda Item # 4A

Heather Glaser

From: marcman31881 [redacted]
Sent: Sunday, October 25, 2020 7:19 PM
To: Mikke Pierson; Skylar Peak; Karen Farrer; Rick Mullen; Jefferson Wagner; Kathleen Stecko; Heather Glaser
Subject: Owner Occupied Multi-Family Do forget us

I have been at every STR meeting for the last 4 years. It seems it is always forgotten that some residents use Multi-family buildings in Malibu as their primary residence. These are the best places to offer short term rentals because the owner is onsite and the other units in the buildings are all 100% legal and no bootlegs or guest houses with no kitchens.

I ask that the city council will consider allowing multi-family owners who can prove their primary residence, just how single family residences have to provide proof, and allow multi-family buildings to have 2 short term rentals. I currently have a 4 unit building, I rent one unit on a yearly basis to a local Malibu business owner, I live in 1 unit, and the other 2 units are short term rentals. Every city council member that I have spoken to has agreed that my building is not a problem. I keep my rent low for my long term tenant and even reduced the rent for my tenant during covid because I offset it with the STR revenue. My tenant even wrote in testimony explaining how she has so many benefits with short terms rentals in the building including reduced rent. With an onsite owner occupied multi-family building I am here to welcome guests, give them menus and guidebooks to local Malibu businesses, and watch each guest check in to make sure they dont bring over the allowed amount of guests. Only an owner will watch for this because its more wear and tear on the building and septic tank. An owner will be the first one to stop a party and not embarrass themselves with neighbors they see everyday.

By only allowing rentals of 30 days or more to my other units is not going to help the city, it will hurt it. If I have a guest book a 30 day booking even if it is just for the summer months, it will yield more revenue to just leave them vacant the rest of the year. This will bring in $0 in TOT taxes to the city. There are only 27 STR on Malibu road with close to 70 total apartments/condos on Malibu road. That is with no enforcement. After enforcement will be cut in 1/2 or more. So by allowing owner occupied multi-family owners to have 2 STR it will not impact the neighborhood. It is not fair that I have the ability to only rent out 1, 600sq ft apartment. If I converted my house into a single family house or duplex I would have a guest house with over 2000 sq ft and make more revenue. If I did that Malibu would loose even more apartments.

From a landlord's perspective I will tell you from experience it is very difficult to keep up with costs of a multi-family building vs a single family home. The loans that we have to get are never for 30 years, we have to refinance every 5 years or take higher rates, it is very difficult to get any insurance company to insure a multi-family. Farmers, Statefarm, and AAA do not offer insurance for my type of building. There are always safety issues to address and extra liability. I know in the last meeting you guys wanted to help out renters, how about helping the landlords who live here full time with multi-family buildings they call their primary residence.

So I ask you to take all of this into consideration and allow owner occupied multifamily buildings to have 2 short term rentals. If I had a 5 unit building I would be able to have 2 short term rentals with no onsite host. How is that better than an onsite owner with 4 units and 2 units on short term rentals? It is not a makeshift hotel when the owner lives on site and rents out the other units long term. In San Diego, a multi-family owner, who can prove its their primary residence is given a STR permit for every unit in the buildings given they don't displace anyone prior. If I can only have 1 STR, I would raise my rents on the long term tenants and take away my ability to have one of the most well kept buildings on Malibu Road.

Please take this into consideration and help the multi-family owner occupied residents have 2 Short term Rentals.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/26/2020 Agenda File

thanks
Marc Man

Kelsey Pettijohn

Subject: short term rentals in other major cities



From: marcman31881 [redacted]
Date: November 5, 2020 at 9:23:28 AM PST
To: Karen Farrer <kfarrer@malibucity.org>
Subject: short term rentals in other major cities

Hi Karen,

Here is what the las vegas area is doing to control short term rentals. They have a short term rental course that all violators have to attend.
https://www.cityofhenderson.com/community-development/short-term-vacation-rentals

Here a quick guide of the fine schedule for some of the largest US cities. Note even Seattle allows 2 short term rental units on a multi-family as long as it is your PRIMARY residence.
https://www.2ndaddress.com/research/short-term-rental-laws/

We should propose raising the TOT tax by 1% and use that 1% exclusively for enforcement of bad actors.

--
Marc Maniscalco

FILED
City of Malibu
Office of the City Clerk
Meeting Date 11/5/20
Agenda Item # 4A

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 11/5/20 Agenda File

Community Development And Services

Short-Term Vacation Rentals

HOME - COMMUNITY DEVELOPMENT AND SERVICES
ABOUT US
MEET THE DIRECTOR
DIVISIONS
HOUSING
COMMUNITY RESOURCES
BOARDS & COMMISSIONS
DEVELOPMENT PROCESS
DEVELOPMENT CODE
PLANNING COMMISSION
LAND USE PLANS
SPECIAL PROJECTS
DEMOGRAPHICS & MAPS
SHORT-TERM VACATION RENTALS

On July 16, 2019, the City of Henderson City Council adopted ordinances for the operation of short-term vacation rentals ("STVR"). Any property owner intending to operate a short-term vacation rental within the City of Henderson must register with the City of Henderson on an annual basis and comply with the following City of Henderson STVR regulations:

Adopted Ordinance 3590 Short-Term Vacation Rental Registration Fee

The registration fee for a short-term vacation rental shall be $820.00. This fee shall be paid on an annual basis from the date the registration is approved by the City of Henderson. The fee is paid per property being registered as a short-term vacation rental.

Adopted Ordinance 3591 Short-Term Vacation Rental Development Code Regulations

19.5.3.G - Standards and Regulations

19.11 - Enforcement

19.12.4 - Terms Defined

Registered Short-Term Vacation Rentals

Proposed Update to the Short-Term Vacation Rental Ordinance

On September 1, 2020, City Council approved a 90-day moratorium prohibiting any new short-term vacation rental registrations.

During this 90-day period, staff will be drafting changes to the ordinance. These changes are based upon our experience with the registered STVRs currently operating within the City, concerns from neighbors where STVRs are operating, observations from staff, as well as concerns we heard from City Council.

Below are the proposed changes regarding short-term vacation rentals. These changes are based upon our experience with the registered STVRs currently operating within the City, concerns from neighbors where STVRs are operating, observations from staff, as well as concerns we heard from City Council.

Below are the current draft of changes for Title 19, regarding Short-Term Vacation Rentals.

- 19.5.3.G - Short-Term Vacation Rental - DRAFT 10.1.2020
- 19.11 - Enforcement - DRAFT 10.1.2020
- 19.12.4 - Defined Terms - DRAFT 10.1.2020
- Public Comment Sheet

Staff will be taking public comment until October 12, 2020 at 9am. This will give staff time to review all received comments and review for consideration.

If you have comments, please use the comment form. It can be completed using Adobe Reader. You can submit any comments to stvr@cityofhenderson.com.

Please note these are not the final drafts that will be presented to City Council. Additional changes may be made prior to submittal for the City Council meeting.

The code changes will be scheduled for the November 3, 2020 City Council meeting, with final decision to be at the November 17, 2020 City Council meeting. These dates may be subject to change. You can visit the City Clerk's Agendas webpage for information to participate in the City Council meetings.

Any additional questions can be directed to Community Development and Services – Current Planning at (702) 267-1500 or via email at stvr@cityofhenderson.com

The following information will be required as part of the registration process. You will be required to upload the information during the registration process. Please ensure all required information is legible and readable when you upload.

- STVR Property Self-Inspection Checklist
- STVR Rental Registrant Statement
- STVR Certification Class Certificate (property owner and registered local contact person are required to take the class, registered local contact exempt if licensed under NRS 645)
- NRS 645 Licensed Property Manager Certificate (required if using as registered local contact person)
- Trust or LLC documents to show applicant must be listed within documents (if property is held in trust or LLC, registrant must be listed as trustee or registered agent)
- Certificate of Insurance with general liability coverage of not less than $500,000

City of Henderson STVR Registration Requirements and Handouts

Some of the documents will be required as part of the short-term vacation rental property registration process. These forms can be downloaded and completed.

- City of Henderson STVR Rental Registration Statement
- City of Henderson STVR Property Self-Inspection Checklist
- STVR Prohibition List
- Good Neighbor Brochure





Please note - this external website is not optimized for Internet Explorer. For best results, please use other web browsers (i.e. Microsoft Edge or Google Chrome).

Short-Term Vacation Rental Complaint Hotline (725) 215-1616

This line is available 24/7 as is to be used to report an illegal short-term vacation rental or report noise, trash, parking, occupancy or other nuisance complaints pertaining to a specific short-term vacation rental. General questions should utilize the Community Development and Services number provided above.

Transient Lodging Tax and Monthly Tax Remittance

All STVR registered with the City of Henderson will be required to submit the Report of Tax Collected on Room Rentals and pay transient lodging tax on a monthly basis in accordance with HMC Chapter 4.48. The owner/operator is liable to the City of Henderson for transient lodging taxes whether or not such taxes are actually collected from the guest. **STVR are still required to submit a monthly Report of Tax Collected on Room Rentals by the due date even if the STVR earned zero rental revenue for the month.** The Report of Tax Collected on Room Rentals and transient lodging tax payments will be submitted online.

Transient Lodging Tax Information/Handouts

- City of Henderson Transient Lodging Tax Revenue Activities
- City of Henderson Transient Lodging Tax Worksheet



The combined transient lodging tax rate for STVR located within the City of Henderson is 13% of the total rental revenue for the month.

The Report of Tax Collected on Room Rentals and transient lodging taxes must be received by the 15th day of the following month covered by the report. If the 15th of the month falls on a weekend or holiday, the payment must be received by close of business the first business day thereafter.

If the Report of Tax Collected on Room Rentals and transient lodging taxes are received on or before the 15th of the month that they are due, the STVR will be entitled to a 2% discount on the Las Vegas Convention and Visitors Authority portion (see Section B, line 4 on the Report of Tax Collected on Room Rentals) of the transient lodging tax.

If the Report of Tax Collected on Room Rentals and transient lodging taxes are received after the 15th of the month that they are due, the STVR will be subject to penalties and interest.

Additionally, failure or refusal to remit transient lodging taxes, along with any assessed interest and penalties, may result in suspension of the STVR registration, and the operation of the STVR must cease until such time as all outstanding transient lodging taxes and penalties are paid and all requirements of HMC Chapter 4.48 have been satisfied.

Frequently Asked Questions

Frequently Asked Questions 5.12.2020

What is a short-term vacation rental? A permanent residential dwelling or any portion of such dwelling unit, rented for occupancy for a period of less than thirty (30) consecutive calendar days, excluding February, counting portions of calendar days as full days, regardless of whether a permanent resident is also present during the period of occupancy.

What do I need to rent my property as a short-term vacation rental? Please review Section 19.5.3.G of the Henderson Development Code, which outlines the standards and regulations to operate a short-term vacation rental. In addition, an annual registration fee will be required.

What if an HOA or CC&Rs prohibit short-term vacation rentals? It is important to note that the City's new ordinance does not alter the ability of common interest communities to prohibit short-term vacation rentals through their CC&Rs or other governing documents and to enforce those prohibitions within their community. The ordinance will require applicants for a city registration to certify in writing that operation

of a short-term vacation rental would not violate any CC&Rs, bylaws, or other agreements governing the use of their property prior to obtaining a registration. In the event that a dispute arises between a homeowner and his/her HOA regarding whether a short-term vacation rental is permitted, if the HOA obtains a judicial order as proof of the prohibition, the City would not allow a homeowner in that community to register. If a property that has been registered and determined to be in violation of the judicial order regarding short-term vacation rental prohibition, the registration will be revoked by the City of Henderson. The City does not enforce CC&Rs or HOA regulations.

How do I register my property for a short-term vacation rental? Registration will not begin until mid-November 2019. Property owners of the short-term vacation rental will register online. When registration goes live, a registration link will be provided on this webpage. If you own multiple properties and would like to register them as a short-term vacation rental, each property will require a separate annual registration. If your property is located within an individually mapped multi-unit development (i.e. condominiums), the number of units permitted to register are 1 unit of 25 percent of the number of units within the building, whichever is greater. Short-term vacation rentals are prohibited in apartment units.

How much does it cost to register my property as a short-term vacation rental? The registration fee is $820.00, which is due annually from date of registration issuance.

Is short-term vacation rental registration transferrable? No, the registration is only valid for the property owner at time of issuance. If the property is sold, the registration is terminated.

Does short-term vacation rental registration apply to multiple properties? No, the short-term vacation rental registration is valid only for one residential property.

Is there a minimum rental period for a booking? Yes. A two-night minimum booking is required.

Is the City creating a waiting list for a unit within an individually mapped multi-unit structures prior to registration? No, the City is not creating a waiting list. Those properties located within an individually mapped multi-unit structure (townhouse, condominium, single-family attached, etc.) will register on a first come, first served basis. Once the maximum number within the building is reached, no further registrations will be issued. Short-term vacation rentals are prohibited in apartment units.

Am I required to pay transient-lodging tax? Yes, each short-term vacation rental registered with the City of Henderson will be required to pay transient lodging tax on a monthly basis as required in Title 4.48 of the Henderson Municipal Code. The registrant is responsible for filing their monthly remittance, even if no taxes were collected for the month.

How do I obtain my short-term vacation rental certification?

Certification must be obtained through a City of Henderson approved Short-Term Vacation Rental Certification class. City of Henderson approved certification classes are currently being offered through College of Southern Nevada (CSN), University of Central Florida, Dixie State University and Utah Valley University, other sites continue to be added. For the most up-to-date course schedule and locations, please visit, https://www.strcertification.com/str-course-dates. The link provided is not maintained by the City of Henderson. The site is maintained by the instructor of the Short-Term Vacation Rental Certification course.

The City continues to work to create additional short-term vacation rental certification programs.

Certification is required for the property owner of record and the registered local contact person. If your registered local contact is a property manager licensed under NRS 645, certification is not required, a copy of the state license will be required at time of registration.

Can I take the short-term vacation rental certification online? Yes, please visit the following link for the most up-to-date course schedule and locations: https://www.strcertification.com/str-course-dates. The link provided is not maintained by the City of Henderson. The site is maintained by the instructor of the Short-Term Vacation Rental Certification course.

Do I need a business license to operate a STVR? The City of Henderson is not requiring a business license to operate a STVR.

Can the property be owned and registered by an LLC? Yes, however a registrant needs to be one of the officers/operators of the LLC, and ownership disclosure providing proof that they are one of the officers/operators and listed in the LLC member information. The member registering for the class needs to be responsible for taking the class.

Where do I get addresses to send out my local contact information to properties within a 200-foot radius once approved? City staff will provide you the mailing list which can be formatted into labels once the City has approved the property's registration.

My STVR is within a larger condominium complex with public areas shared by all condo owners. Do I still need to provide exterior noise monitoring devices since these public areas are shared by other owners? No, the monitoring is required within the rental unit, and any private common areas large enough for customers may congregate as a group.

Short-Term Rental Laws in Major U.S. Cities (Updated 2/5/2020)



FEBRUARY 5, 2020 COMMENTS 18



This article was updated on Feb. 5, 2020 to include short-term rental laws in Austin.

Since Airbnb's launch back in 2008, the short-term home-sharing model has flipped the hospitality industry on its head. Travel industry experts Skift estimated that the global short-term rental market would reach a market valuation of $169 billion through 2018. Airbnb is one of the most-anticipated upcoming IPOs in 2020.

But the short-term rental industry is not without controversy. Hanging in the balance is the ever-present question: Whether to regulate it more strictly to preserve local culture and keep

local residents from being priced out, or allow it to thrive and reap the benefits of booming tourism?

City after city, restrictions on short-term rentals pop up across the country, to keep its rapid growth in healthy check. These laws are very local in nature and vary from state to state, even town to town. Here is a summary of short-term rental restrictions in major U.S. cities:

COMPARED:

Short-Term Rental Laws Across the Country





City	Summary	Take Effect	Fine	STR License Fee	Additional Cost
New York	1. Can't rent out entire apartment (hosts must be present) 2. Can't advertise an apartment 3. Up to 2 paying guests	May 2011	$1,000 - $7,500 (illegal advertising of apartments)	N/A	1. Sales and use tax 2. Hotel room occupancy tax
San Francisco	1. Must register as a business and as a short-term rental 2. Hosts must be permanent residents 3. Up to 90 nights a year without hosts 4. No income-restricted affordable housing	Feb. 2015	≥ $484 (per day)	$250	1. Transient occupancy tax 2. Business personal property tax
Los Angeles	1. Must obtain licenses 2. Must be primary residence 3. Up to 120 days a year	July 2019	≥ $500 (per day)	$89	Transient occupancy tax
Washington DC	1. Must obtain license, additional "vacation rental" endorsement for renting out an entire unit 2. Must be primary residence 3. Up to 90 nights a year without hosts	Oct 2019	$500 - $6,000 (per violation)	TBD	Transient lodging tax
Chicago	1. Short-term rental platforms must obtain license 2. Hosts with 1 home-share unit register through the rental platform 3. Hosts with ≥ 1 home-share unit must obtain license from city of Chicago 4. Vacation rental must obtain license	March 2017 (host registration)	$1,500 - $3,000 (per day)	$0 - $250	Hotel accommodation tax
Boston	1. Must obtain license 2. Must be primary residence or an secondary unit at their primary residence 3. No income-restricted units	Jan. 2019	$100 - $300 (per day)	$25 - $200	Same tax as hotel
Seattle	1. Short-term rental platforms must obtain license 2. Hosts must register as a business and as a short-term rental 3. Up to 2 units 4. If operate 2 units, one must be primary residence	Sep. 2019	$500 - $1,000 (per violation)	$75	1. Retail sales tax 2. Lodging tax 3. Business and occupation tax

Data source: Municipal Codes

2nd Address

Quick links to short-term rental laws in each city:

- **Northeast:**
  - New York City
  - Jersey City
  - Washington DC
  - Boston
- **Northern California:**
  - San Francisco
  - San Jose
  - Mountain View
  - Redwood City
  - Sunnyvale
  - Oakland
  - Berkeley
  - Emeryville
  - Millbrae
- **Southern California:**
  - Los Angeles
  - Santa Monica
- **Southwest:**
  - Las Vagas
  - Austin
- **Midwest:**
  - Chicago
  - Denver
- **Northwest:**
  - Seattle
- **Florida:**
  - Miami
  - Miami Beach
- **Hawaii**
  - Honolulu

New York City

New York City, the biggest tourism magnet in the world, has some of the strictest short-term rental laws. Back in 2011, even before Airbnb's widespread popularity, the New York State

Multiple Dwelling Law made it illegal in most apartment buildings for an apartment to be rented out for less than 30 days, unless the permanent tenant is present at the same time.

In fact, even advertising such a rental is illegal, as mandated by the state law. Illegal advertising of apartments—defined as a building with three or more units—on is subject to fines up to $7,500.

Technically this rule doesn't apply to single-family homes—which, granted, are few and far between in New York.

Airbnb hosts can rent out a spare room in their apartments as long as they are also living at home. But there's a catch: They can't install any locks at home because guests need to have free access to all rooms.

Last year, the New York City Council went a step further in cracking down short-term rentals by introducing a bill, requiring Airbnb and other home-sharing sites to disclose details about their listings, and the identities and addresses of their hosts every month. The bill was recently blocked by a federal judge in January 2019.



San Francisco

San Francisco, where Airbnb's headquarter is located, was among the first cities to regulate short-term rentals. As early as 2014, the city imposed a limitation on the number of days a property can be rented out for short stays.

Starting from 2015, hosts were required to register as both a business and as a short-term rental, according to the city's Office of Short Term Rentals legal battle between Airbnb and the city that stretched for over a year, before both parties finally settled in court in May 2017. As a result, the number of Airbnb listings plunged overnight last January, upon the final deadline to ditch unregistered hosts.

Today, San Francisco maintains a list of all registered hosts, who report every quarter on occupancy. If they want to rent out the entire property, they can only do so for up to 90 nights a year. They can rent out a spare room for an unlimited number of nights as long as they are also staying at the property.

Certain types of housing are off-limits for such rentals, which include Income-restricted affordable housing and student housing. Unique homes that add the most fun to vacation rentals—such as treehouses, teepees, and RVs—are also not permitted. Despite the regulation, a search for San Francisco treehouse on Airbnb yields some results.

Los Angeles

After a three-year-long debate in Los Angeles, short-term rental rules were passed in last December. Effective July 2019, property owners can only rent out their primary residence, not a second home or investment property for stays of fewer than 30 days, according to the city ordinance. Violation is subject to a daily fine of at least $500.

Hosts must register with the city, pay hotel taxes, and keep records for city inspection. They can legally rent out for short stays for no more than 120 days a year. Exceeding the limit will result in a daily fine of at least $2,000.

If a property is rent-controlled, it can't operate as a short-term rental at all.

Washington DC

The nation's capital recently joined the list of cities that enact strict Airbnb regulations. Starting from October 2019, property owners in Washington DC can only rent out one home—their primary residence—according to a city regulation act.

To legally operate short-term rental, all hosts must register with the city. For those who wish to rent out an entire property, they must obtain an additional "vacation rental" endorsement. The maximum nights they can rent out an entire property is 90 nights a year.

Fines vary, but start at $500 and can go up to as much as $6,000 for a repeat offense.

Chicago

Three years after Chicago enacted its short-term rental regulation, it requires a license for short-term rental platforms as well as hosts.

The city ordinance classifies short-term rental platforms into two categories: 1) “Short-term rental intermediary” refers to platforms that primarily list shared housing units, like Airbnb; 2) “advertising platform” refers to sites that primarily list vacation rental or bed and breakfast, such as VRBO and HomeAway.

Hosts on Airbnb who only has one listing can register with the platform, which then collects data of all hosts and submits them to the city. Hosts on Airbnb with more than one listings need to obtain a license directly from the city for a fee of $250.

A city license is also required for VRBO and HomeAway hosts or vacation rental owners who operate offline.

All hosts are required to provide soap, clean linen, sanitized utensils, and other living necessities.

Chicago imposes steep fines against illegal short-term rentals, from $1,500 to $3,000 per day.

Boston

Starting January 2019, the city of Boston opened registration from hosts who want to rent out their properties for fewer than 28 nights, after a city ordinance was passed last June.

Hosts who want to rent out a spare room while living under the same roof can apply for a license for $25 per year. Those who want to rent out an entire unit can only do so for their primary residence or a secondary unit (such as an in-law unit) in their primary residence. The license fee for renting an entire unit is $200.

Hosts who fail to register face a $100 fine per violation per day. Those who rent out units that are ineligible, like a below-market-rate unit, face $300 fine per violation per day.

Under a new state law signed last December, short-term rental hosts will have to pay the same 5.7 percent state tax as hotels.

Airbnb had been battling with Boston in court over the short-term regulations in the past year.

Latest update on 08/29/2019:

Airbnb and the city of Boston finally reached a settlement. By December 1, 2019, all short-term rental listings will be required to display a city-formatted registration number, or the listings will be removed. Airbnb also agreed to share data about listings with the city, including the listing's URL, registration number, host ID, information, and zip code.

Previous updates:

In May 2019, just four months after the new law took effect, a federal judge temporarily blocked Boston from imposing parts of the ordinance. The judge declared that the city can't ban a short-term rental service because it posted listings in violation of the ordinance. He also concluded that the city couldn't force Airbnb to report how many days a week rental units are occupied.

Seattle

In Seattle, both short-term rental platforms and individual hosts need to obtain licenses from the city. Platforms like Airbnb and VRBO are obligated to report all licensed operators and their listed units every month, according to the city code.

A host must apply for both a business license and a short-term rental license.

With a valid license, a host may rent out up to two units as short-term rentals. It the host has two units, one must be his or her primary residence. Violations are subject to $500 fine for the first offense and $1,000 for a repeat offense.

Short-term rental hosts must pay retail sales tax and applicable lodging taxes on the rental charges. They also owe business and occupation (B&O) tax, but could qualify for the small business B&O tax credit, according to the Washington state department of revenue.

Latest update on 10/18/2019:

The online application portal for short-term rental licenses is now open, after delays due to technical difficulties. Enforcement of short-term rental regulations—including the issuance of penalties—will begin on Dec. 15, 2019, according to the city.

Denver

In Denver, the rules for short-term rentals were established by the Denver City Council in 2016. According to the ordinance, property owners can rent out individual rooms or garage apartments on quiet residential blocks for less than 30 days. The homes can be rented out when the owner is away, but it must be the owner's primary residence. Short-term rental hosts pay the Denver Lodger's tax of 10.75% of the entire amount charged for the lodging.

To legally do so, property hosts need to apply for a license from the city, which costs $25 dollars, as of January 1, 2017. If the city has reason to believe the rental property is not the owner's main residence, it launches investigations into the situation. The enforcement action can range from warnings to fines to felony charges.

Latest update on 09/04/2019:

The Denver Post reported that the city now asks license holders suspected of cheating to sign affidavits—the only city in the country to do so. As a result, hundreds of property owners are shutting down short-term rentals to avoid legal implications.

Miami

The tourist-dense Miami is another battleground between Airbnb and strict short-term rental regulations. According to the Miami-Dade County Code of Ordinances, a vacation home must live in the same unit for more than six months a year.

The maximum overnight occupancy for vacation rentals is up to a maximum of 2 persons per bedroom, plus 2 additional persons per property, up to a maximum of 12 persons.

The unit must be licensed by the State of Florida, including registration with the Florida Department of Revenue for tax purposes. The unit has to pass a property inspection to get the license as a vacation rental, which is valid for one year.

Fines for violation is $100 for the first offense, $1,000 for the second, and $2,500 for the third.

Miami Beach

The city of Miami Beach enforced even stricter regulations on short-term rentals. Rentals for less than six months and one day are prohibited in the city unless the property is in a legally permissible zone, such as most of tourist-dense South Beach.

Miami Beach has the most expensive fines in the country for illegal short-term rentals. The rule was first instituted in March 2016. There's an escalating fine structure: $20,000 for the first violation, $40,000 for the second, $60,000 for the third, $80,000 for the fourth, with a max of $100,000 for each offense after.

Latest update on 10/08/2019:

On October 7th, A Miami-Dade circuit judge struck down the city's law that fines homeowners $20,000 for illegally renting their places short term on sites such as Airbnb, reported by the Miami Herald.

Despite the ruling, the city's spokeswoman, Melissa Berthier, said the fines are still in effect and that the city's code enforcement would continue to enforce the ordinances.

Santa Monica

Santa Monica passed its first home-sharing ordinance in 2015. According to city regulation, Santa Monica allows residents to rent out rooms in their homes for a period of 30 days or less. Renting out an entire home remains illegal.

In 2016, Airbnb and HomeAway filed a lawsuit against the city to stop the home-sharing ordinance from taking effect, but in 2018 the U.S. District Court for the Central District of California ruled in favor of Santa Monica on the issue.

Anyone operating a home-share must apply for a City business license and pay business tax. Another 14% of the transit occupancy tax also applies, which is paid by the guest.

Latest update on 12/10/2019:

The City signed a major settlement agreement Tuesday with Airbnb that is expected to "dramatically reduce" illegal listings. In addition to restricting listings to no more than two per residence, the agreement requires Airbnb to include a City license number on each listing and pay $2 for every night booked.

Previous update on 09/24/2019:

The Santa Monica City Council voted to revise the short-term rental ordinance amendments, which will take effect on October 24, 2019. The new law continues to allow home-sharing, but requires that eligible residents obtain both a home-share permit in addition to the home-share business license that was already required. The initial home-sharing permit application cost will be $100, and the annual renewal fee will be $50. The City is in the process of revising its administrative rules and regulations.

Jersey City

Across the river from Manhattan, Jersey City passed its short-term rental ordinance in June 2019, after nearly nine hours of public comment and council discussion. The new law will take effect on Jan. 1, 2020.

The new law will ban Airbnb and other short-term rentals in buildings with more than four units and phase out existing short-term rental contracts by Jan. 1, 2021.

Meanwhile, owners of buildings with four or fewer units will be permitted to rent out up to two of them. Short-term rentals in condominiums will be allowed the local board permits it.

The ordinance institutes an annual 60-day cap for short-term rental properties if the owner is not on site.

To operate a short-term rental under the ordinance, the host has to be the property owner—the new provision bars renters from operating short-term rentals. All hosts will be required to obtain a permit, which must be renewed annually.

Latest update on 11/5/2019:

Jersey City residents overwhelmingly approved the short-term rental law, with 86 percent of voters in favor of the new law.

Previous updates:

City Clerk Robert Byrne on Aug. 7 certified a referendum petition submitted by opponents of the ordinance, giving the council a chance to repeal the law. Now, the future of the ordinance will be decided by voters on Nov. 5.

San Jose

San Jose started regulation short-term rentals as early as December 2014, when the city ordinance was introduced. To be eligible to operate a short-term rental, the host has to establish primary residence by living in the property for at least 60 consecutive days a year.

For hosts that meet the criteria above, there are some limitations to operating a short-term rental. If the host is not present, bookings are capped at 180 days a year. The maximum number of guests is 2 per studio, 3 per one-bedroom unit, and 2 per bedroom for larger units, up to an absolute max of 10 guests.

If the host is present, there's no cap on the number of nights the place can be rented out per year. And the host can have up to 3 guests in single-family homes or 2 guests in multifamily dwellings.

A 10% transient occupancy tax is collected for all short-term rental bookings.

Mountain View

Despite the lack of tourism in Silicon Valley, Mountain View has seen a high demand for short-term rentals as businessmen and interns flock in town because of Google. Short-term rental laws were established in Mountain View in December 2018 to fight some of the nation's highest rents.

Starting from September 1, 2019, hosts need to obtain a business license and submit a short-term rental registration application, which costs between $41.25 and $165 a year. Fine for operating without a registration starts from the second offense at $500.

If hosts want to rent out the entire property, they can only do so for up to 60 nights a year. They can rent out a spare room for an unlimited number of nights as long as they are also staying at the property.

No special events—weddings, parties, corporate gatherings, etc—are allowed at the short-term rental property.

A 10% transient occupancy tax applies to all short-term bookings.

Sunnyvale

Located 10 miles north of San Jose, Sunnyvale adopted the strongest short-term laws in Silicon Valley, in an effort to protect the city's affordable housing.

The ordinance only allows short-term rentals if the host has a permit from the city and also lives in the same property. A maximum of 4 occupants per night at any given single-family dwelling. In addition, a 12.5% transient occupancy tax is collected for all bookings.

Oakland

Across the bay from San Francisco, Oakland has even stricter laws that ban short-term rentals in most zones. The only exceptions are designated zones in downtown, along the waterfront, near the airport, along the I-880 freeway, and in Specific Plan areas.

In those permitted areas, a Conditional Use Permit is required to operate short-term rentals. A 14% Transient Occupancy Taxes applies to all short-term rental bookings.

Berkeley

In Berkeley, short-term rental law regulates temporary stays that are less than 14 days. Short-term rentals are only permitted in certain zones (see city website for the detailed list).

Short-term rental hosts have to prove that they are the primary resident and provide liability insurance of $1,000,000 for guests. The ordinance institutes an annual 60-day cap for short-term rental properties if the owner is not on site.

Hosts are required to register with the city and obtain a zoning certificate ($220 application fee), collect a 12% transient occupancy tax, and pay an additional 2% enforcement fee.

Emeryville

Short term rentals are only allowed in single-family homes, according to Emeryville city ordinance. Only primary residences are eligible for short term rentals. The ordinance also institutes an annual 90-day cap for short-term rental properties if the owner is not on site.

Hosts are required to obtain a short term rental permit from the Planning Division and collect 14% transient occupancy tax.

Redwood City

Short term rentals in Redwood City are only allowed in primary residences, according to the city website. There's an annual cap of 120 days per year for short-term rentals if the owner is not on site. There are no annual limits for hosted rentals.

A local contact person is required and hosts must register, obtain a business license, and collect a 12% transient occupancy tax. Special events—weddings and corporate retreats—are prohibited.

Millbrae

Home to the San Francisco International Airport, Millbrae is the major transportation hub in the Bay Area. Hosts who operate short-term rentals in Millbrae must be the primary resident, by proving that they live in the property for at least 265 nights a year.

There's an annual cap of 100 days of booking per year for short-term rentals if the owner is not on-site, according to the ordinance. There are no annual limits for hosted rentals.

Violation of the law results in a fine of up to $1,000 per violation per day.

Honolulu

In June 2019, Honolulu City Council, which governs the entire island of Oahu, passed Bill 89 to regulate short-term rentals. Under the new law, renting out an entire home without host presence is only allowed in the resort and certain apartment-zoned districts. Follow this link to see maps of designated zones.

But the law opened up new registration for hosted rentals, so-called "bed and breakfast homes", of up to 1,715. The application process is not set to begin until October 2020.

The law also requires short-term rental owners to obtain a permit from the City and County of Honolulu and include the permit number on any advertisement.

The new ordinance outlines strong penalties for running illegal short-term rentals. Fines start at $1,000 for an initial violation and escalate to $5,000 a day for ongoing noncompliance, and up to $10,000 per day. The law also allows the city to confiscate rental earnings.

Las Vagas

It's not a big surprise that Las Vagas, where the city's livelihood depends on the hotel industry, enforces some of the country's most strict Airbnb laws. Historically, the whole Southern Nevada has prohibited short-term rentals.

Last year, the city of Las Vagas passed an ordinance that allows some homes to be rented out for less than 31 days, but with many limitations. Only property owners are eligible to operate a short-term rental, and they have to be present while the property is being rented out.

The law also maintains strict property eligibility criteria. A property has to be at least 660 feet from any other short-term residential rental, can't have more than 3 bedrooms, and can't be located in master-planned areas such as Summerlin and Symphony Park.

In order to obtain a short-term rental license, the property owner has to provide proof of liability insurance coverage with a $500,000 minimum amount.

With a valid license, the host can't host more than two persons per bedroom.

Austin

As early as August 2012, the Austin City Council passed an ordinance requiring a license to operate an STR. The ordinance was amended in September 2013 and then again in February 2016.

The city categorizes 3 types of STR:

1. Type 1: Owner-Occupied (single-family, multifamily or duplex)
2. Type 2: Not Owner-Occupied (single-family or duplex)
3. Type 3: Not Owner-Occupied (multifamily)

Under the most recent ordinance, Type 2 short-term rentals will be eliminated rentals in residential areas by 2022, though they could continue to be built in commercial areas.

The ordinance prohibits unlicensed short-term rentals from advertising. Violators could be subject to fines up to $2,000 per day.

Latest update on 11/21/2019:

A state appeals court has declared some elements of Austin's rules governing short-term rentals unconstitutional.

The court ruled to allow Type 2 in residential areas, and also to void the following regulations regarding STR:

- No more than two adults per bedroom plus two additional adults between 10 p.m. and 7 a.m.
- A rental can't be used for a gathering between 10 p.m. and 7 a.m.
- A rental cannot be used for an outside gathering of more than six adults between 7 a.m. and 10 p.m.
- A rental cannot be used by more than ten adults at one time or more than six unrelated adults.

TAGS • SHORT TERM RENTAL LAW



ABOUT ANDREW SIMMONS:

Senior content manager at 2nd Address

www.2ndaddress.com

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18 COMMENTS ON "SHORT-TERM RENTAL LAWS IN MAJOR U.S. CITIES (UPDATED 2/5/2020)"



alfonzo mourning
September 6, 2019

I'm not an attorney, yet it feels like fundamental constitutional rights have been trampled under some of these municipal ordinances created to regulate short-term residential rentals.
The regulations passed by the City of Los Angeles now going into effect can almost be heard calling out for someone to challenge their legality in the courts.
No group of more than 8 adults allowed outdoors at night at a short-term rental property.
Really? So is this Los Angeles or Saudi Arabia? Is the 4th Amendment void in Los

Angeles at night for anyone not renting for at least 30 consecutive days?
Can anyone explain the reasoning behind instituting a total ban on short-term rentals when a property falls under jurisdiction of the City's Rent Control ordinance?
With absolutely no provision of due process review, the City has instituted an arbitrary criteria to determine the membership of a huge group of renters and homeowners who will be denied their fundamental liberty.

For example, let's say i own a duplex in the city of l.a. which is subject to the Los Angeles RSO(rent control). I live in one of the units as my primary residence.
The new ordinance disqualifies my unit from being registered for a short term rental permit. Without a valid registration number, it is illegal for me to engage in any short term rentals of my home.
I cannot airbnb a room in my home to supplement my income, nor can i airbnb a room as an exercise in social interaction and cultural enrichment. While I'm out of town on vacation for two weeks utilizing airbnb to find affordable and unique accomadations during my travels, my home must remain vacant as I'm prohibited from renting it for a period less than 30 days.
Meanwhile, the owner of a stand-alone single family residence next to my duplex can airbnb a room in the home to supplement his income and can offer the entire home for rent on airbnb – offsetting the expense of lodging while he is away on his 2 week vacation.

Now consider that i am renting the 2nd unit in my duplex to a long term month-to-month-tenant. And i have granted my tenant permission to participate in airbnb rental of his unit for up to 120 days of the year.
Since my property is subject to Los Angeles Rent Control, my tenant is forbidden using airbnb to find short term lodgers for a room in in his unit and he cannot rent his whole unit to anyone while he travels out of town for 1, 2, 3 or 3 1/2 weeks at a time.

Take note, not all renters of rent controlled units are paying low rent. The tenant of the 2nd unit in my duplex just moved in 2 months ago at full current market rent.
The tenants of a nearly identical duplex across the street pay the exact same monthly rent as my tenant, but that duplex is a month newer than mine and its not subject to L.A. Rent Control.
Their landlord has granted them permission to supplement their income by occasionally listing a room on airbnb and they are able to afford a 2 week vacation every six months because they rent out their whole unit via airbnb while they are gone.
Meanwhile, the city prohibits my tenant from doing any of what the tenants in the duplex across the street may do.
My tenant gets hit by a drunk driver and is seriously injured.
While he is in the hospital recovering, he is not allowed to rent his unit through airbnb.
Due to his injury, he is unable to return to his work for several months.

Unfortunately, his unemployment benefits fall short of covering his monthly rent and bare living expenses.
He is desperate for a temporary source of some extra funds, which listing his unit on airbnb would provide.
But the city of los angeles has already told him “no!”.
Unfortunately, he falls behind in paying his monthly rent and i’m left with no alternative but proceed to eviction.
2 months later he is homeless on the streets of Los Angeles – due to the cruel and arbitrary exclusion of los angeles rent control units from participating in airbnb.

↳Reply



Joanna Bailey
September 17, 2019

I completely agree with this assessment, and that it’s a very convoluted situation. Much like an HOA, a municipality should not be able to regulate what happens inside a homeowner’s property. Provided it’s not an obvious legal violation {meth lab, human trafficking hub, etc}, which a homeowner chooses to do to maximize their investment should be no one’s business.

If I own a home and run a small catering company from it, per the local health department I can be permitted provided I follow their parameters. Why is short term rental service different? Airbnb has done a stellar job of ensuring that towns and cities receive the tax revenue they initially feared they’d lose.

There’s a lot of legal posturing here; it needs to be addressed head on.

↳Reply

J
October 26, 2019

Hi

↳Reply

Carlson
October 31, 2019

None of these ordinances prohibit you from renting extra rooms in your home.

↳Reply

Mahmoud
September 23, 2019

Find all Kind of property for rent. Search through a wide range of all Kind of property for rent and get contact details for sending enquirers.

Home For Rent Los Angeles

↳Reply

Michael Johnson
September 24, 2019

Never in my wildest dreams when I bought my property many years ago did I think that my surrounding neighbors would someday be operating a 24/7 hotel next door. You're gonna tall me that my neighbor's property rights trump mine? Their combined actions in my small community is totally changing the character of the community where we live. They're robbing the community of the greatest attributes that it has… the very reasons why most of us moved here. If you don't like the HOA agreements in an neighborhood… don't move there! When people want to move into a new neighborhood and change it… they should move somewhere else! You can take you property rights arguments and shove them.

↳Reply

Linda Timmerman
October 17, 2019

Michael, I completely see your point of view but, may I ask if you are against your neighbors renting their house as a traditional rental? Is that within their rights (and yours) as property owners?
I'm not sure what the tenants rights laws look like in your state but, in mine if I inadvertently lease my property to drug addicts or people that party all the time, it will take an act if god to get them out of my house.
If you have specific issues with your neighbor's guests I encourage you to address them with your neighbor. Unlike a traditional rental your neighbor has the control to regulate the behavior of the guests.
Just some food for thought.

↳Reply

Alina Smith
November 14, 2019

No one is against homeowners who list their home for traditional rentals or homeowners listing their primary residence on occasion on Airbnb.

Most folks confuse two scenarios: traditional landlords who lease their home to a tenant with a 12 month lease versus commercial operators who buy several single family homes with no intent to occupy it themselves, no intent to lease it

to a local family and instead operate an Airbnb 360 days in the year. The latter is 100% commercial & should not be allowed in areas zoned for residential.

Commercial operators rent out their properties for less than 30 days, instead of being a traditional landlord because it is no secret that you can make more rental income in a month by charging per night instead of per month. If a traditional lease on entire home rental is about 2K a month, an Entire home Airbnb can gross close to 10K a month if completely booked with 4-15 turnovers. The neighbors have to deal with transients coming and going.

What if your Airbnb neighbor lives out of state, you have no idea how to contact them if there is criminal activity going at the Airbnb next door? How would you feel if the guests are filming a porno next door? Or banged on your door because they are so drunk and can't figure out which house is the Airbnb they booked? Many of the complaints about Airbnb are in homes where the owner does not even live in the area, and shouldn't have been allowed to operate as a makeshift hotel in the first place!

Because most of them live out of state, commercial operators have LITTLE oversight in controlling the behavior of the guests. Also because they take up 15 year mortgages, their priority is bookings, so they are not as likely to screen guests carefully and allow parties if they are that desperate for bookings to make their month.

Entire house listings by homeowners who list their primary residence on occasion have little to none of these problems. Because they live in the area, they have jobs that can handle the mortgage payments or are retired and already paid off their house. In those situations, they can handle the risk of being unbooked, and turning away guests they don't feel good about. These hosts do not have the need to Airbnb their entire house 360 days in the year, they wouldn't anyway because they would have to pack and leave their home all the time, it's too much hassle for them.

↳Reply



Otis Duffy
December 28, 2019

Great point!

I think many homeowners are missing the point and have a negative association with Short Term Rentals. The reality is like you articulated a long term tenant can be bad ie a drug addict or throw parties all the time.

Why do we need to create laws on top of laws when we already have police who are supposed to arrest and fine people for doing things that are illegal whether they are long term tenants or short term tenants, ie Airbnb.

Whenever we decide on something we should put down the pros and the cons. Some cities are making $4 million dollars in revenue for allowing property owners or investors to rent via airbnb and other STR methods. To throw away that kind of revenue because?? If one dog bites someone we don't ban dogs do we?? I guess some property management companies do ban big dogs, which I feel is outrageous as with that logic we should ban big people….

Why are we forcing homeowners to either rent long term or live in the property?

Why are we allowing the hotel industry to have a monopoly??

This business only helps out the small investors create a small business that can compete with the hotels and keep their pricing competitive.

↪Reply



Gregory Oaksen
September 25, 2019

Cetainly municipalities can regulate short term rentals. They regulate zoning controlling where single family and multi family residences and commercial properties can be located. Building codes regulate minimum standards for dwellings and commercial structures. The first two commenters ignore the negative impacts of too many short term rentals on communities. Negative impacts are why you are seeing protests against overtourism in many locations throughout the world.

↪Reply



D*mn Shame...
October 3, 2019

Exactly!

Then You have unscrupulous landlords who try to take properties off the market to turn them into Short Term Rentals (STR)…Mine has made an entire Business out of it!

Thankfully the Forbiddance of turning Rent Stabilized Properties into STR is in effect now. That is a huge part of the reason there are so many homeless people in Los Angeles Now! Because these Jerk-Offs were taking properties Off the Market!

While the rents are now insane all of this madness will soon be coming to a head when the next downturn happens …a whole lot of people's bubbles are going to be busted when that happens…

↪Reply

Heather
October 4, 2019

People should be allowed to rent out a 2nd or vacation property. I think that fines and punishments for irresponsible owners who don't respect their neighbors are understandable but the entire city is acting line an aggressive over zealous HOA.

↳Reply

anna
October 7, 2019

The house next door is suddenly a hotel, now that I have complained-they stalk me!! Write FB posts as if I am in the wrong. Luckily, the frequent lies (not a resident, not approved by Building Department and not just friends and relatives) caught them but still, why do I have to spend my day on this??? Nice quiet neighbor and sleeps 7 do not belong in the same sentence. Barked at by different dogs every weekend, all the cars and now harassed by the investor who is trying to shut me up. Every little town has to spend the time to write rules too.

↳Reply

sandra aguilar
October 21, 2019

Bottom line people every persons situation is different and in some cases there is no other alternative to stay afloat is to rent out the other room or your entire home just to make ends meet STOP BEING SO FUCKING BITTER ABOUT YOUR NEIGHBOR MAKING ENDS MEET. AND FURTHERMORE HOMELESSNESS HAS BEEN AROUND SINCE I CAN REMEMBER. IF YOU WANT TO LOOK AT HOMELESSNESS CLOSER THERE'S A LOT OF DIFFERENT REASONS WHY PEOPLE ARE HOMELESS NOT JUST BECAUSE YOUR NEIGHBOUR IS SUBLETTING THEIR EXTRA BEDROOM BUT BECAUSE THEY ARE INSANE THEY ARE DRUG ADDICTS THEY ARE PLAIN LAYSEE AND THEY CHOOSE TO BE HOMELESS… BOTTOM LINE THE HOME OWNERS PAID THEIR MONEY AND THE GOVERNMENT SHOULD NOT HAVE A SAY ON WHAT HAPPENS INSIDE A HOME UNLESS ITS ILLEGAL ACTIVITY… BUT BOTTOM LINE UNCLE SAM JUST WANTED MORE MONEY AND TO BE IN CONTROL OF THE HOW THE WHAT THE WHEN AND THE HOW… My question what happened to the 4th amendment of the constitution?

↳Reply

Carlson
October 31, 2019

None of these ordinances prohibit renting extra rooms in your home.

↳Reply

Sandy Moire
January 27, 2020

I'm with you! I purchased my 2nd home as a vacation home in 2005. It was the top of the market. There were no laws telling me if I could rent it out short term or long term

With a dip in the market I couldn't sell it and the local taxes, utilities just kept going up. I spend one week a month there. I've been using Airbnb to take care of the costs. It's not rented out 24/7. It's not always easy to get someone in for 3 days to a week. Feels like communism to me. I have a private individual home with neighbors quite far away. They don't bother anyone! But the city of Monterey, CA passed a local ordinance fining me $200 a day just for advertising a short term renta! Unfair! This is against all private ownership rights. Government Control! Hotels are behind this!!

↳Reply

david
January 24, 2020

This is a great site and helpful the many STR companies out there. Colorado Springs just passed some new regulations. Please keep updating!

↳Reply

Vivit-Tours.com
February 3, 2020

Staff to present draft Ordinance for STRRs regulations to City Council for their consideration and final adoption.

↳Reply

LEAVE A REPLY

Your email address will not be published. Required fields are marked *

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Save my name, email, and website in this browser for the next time I comment.

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703 Market Street, 18th Floor,
San Francisco, CA 94103



CAL BRE # 01962700

Kelsey Pettijohn

RECEIVED
Nov 05 2020
CITY CLERKS OFFICE
CITY OF MALIBU

Subject: Short Term Rentals

From: Richard Lawrence [redacted]
Sent: Thursday, November 5, 2020 1:24 PM
To: Heather Glaser <hglaser@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; [redacted] Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; [redacted] Heather Glaser <hglaser@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; [redacted] Jefferson Wagner <jwagner@malibucity.org>; Skylar Peak <speak@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; John Mazza [redacted]
Subject: Short Term Rentals

City Council, **DO NOT CHANGE OR AMEND THE SHORT TERM RENTAL ITEM IN ANY WAY. THE COMMUNITY HAS SPOKEN AND YOU HAVE SPOKEN OVER A PERIOD OF MANY YEARS. THIS A SETTLED COMPROMISE AND DOES NOT NEED TO BE CHANGED AND/OR OPENED UP FOR FURTHER CHANGES. Best, Richard**

Richard Lawrence, President
Malibu Township Council

FILED
City of Malibu
Office of the City Clerk
Meeting Date 11/5/20
Agenda Item # 4A

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 11/5/20 Agenda File

RECEIVED
Oct 26 2020
CITY CLERKS OFFICE
CITY OF MALIBU

City Council

From: Rochelle [redacted]
Sent: Saturday, October 24, 2020 8:40 AM
To: City Council
Subject: Short term rentals

Hi there. I oppose the new restrictions being decided on with short term rentals. I believe it is my right as a property owner and tax payer to be able to use my property in any way I see fit as long as I'm not causing harm or doing anything illegal. My Airbnb is managed properly with a no party rule and I enforce it strictly. My guests, ALL my guests patronize the local businesses from the Country Kitchen to Dukes all the way to Trancas marketplace. It would be a huge hit to our local merchants, as if Covid hasn't been enough of a hit, to shut down or limit my Airbnb business. Please vote against this socialist proposition and allow me to use my property as I see fit. Thank you. Rochelle, Member of Las Flores, LLC.

Sent from my iPhone

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/26/2020
Agenda Item # 4A

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/26/2020 Agenda File

RECEIVED
Nov 02 2020
CITY CLERKS OFFICE
CITY OF MALIBU

Kelsey Pettijohn

Subject: Short term rental

FILED
City of Malibu
Office of the City Clerk
Meeting Date 11/5/20
Agenda Item # 4A

From: RJ Parsons [redacted]
Sent: Thursday, October 29, 2020 4:09 PM
To: City Council <citycouncil@malibucity.org>
Subject: Short term rental

Hi

I am a 22 year resident. I also manage beachfront property caught up in the proposed short term rental issue/ regulation.

The issue as I see it -- is there are hundreds of apartments near the pier, clusters of condos in different sectors with association rules, a handful of Multi Unit Residences - Multi Family Dwellings (MFD) - very high value, some in very affluent areas.

The proposed regulation has them all lumped together. That is an egregious violation of taxpayer And personal Property ownership rights. It's also a bait and switch on those who bought properties- and now have to suffer from the lunacy of overreaching controls on their personal and business management decisions.

It is not one size fits all.

This is a regulation for the apartments- not the high value residential investments. It is also not a panacea for mismanaged condos- like Malibu Gardens who lack leadership and their own management controls.

The proposed regulation is a socialist attempt to bait and switch homeowners -- many of whom rely on MFD income to make Mortgage payments and not default.

THEY WOULD BE REQUIRED TO HAVE ON SITE PROPERTY MGT, diminishing their rental income.

For " apartments" in high density areas, like the "ghetto" as commonly known, near Nobu--this is no problem. That area and many apartment structures That are specifically designed that way-- to have on-site managers.

Communism is " the ownership of private property and the means of production."
Socialism is the "control" of private property and the means of production."

The City already has its taxes and fees itemized from Airbnb and VRBO-- they get paid.
Now they want to displace properties in small affluent areas and IMPOSE ONSITE RENTAL MANAGERS.

These affluent MFD properties are not all the same.

I think you get the drift.

The council appear all socialists. They are voting for it. The city manager - a tyrant who kept owners out of their homes during and after the fires- doesn't even live here.

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 11/5/20 Agenda File

Everyone bought into the " Sacramento Thousand Mile Screwdriver Imposed coastal Plan".

Don't buy it !

I say eliminate it and the Coastal Commission and return to local control.

V/r

RJ Parsons
[redacted]

Sent from my iPhone

Sent from my iPhone

Kelsey Pettijohn

RECEIVED
Oct 20 2020
CITY CLERKS OFFICE
CITY OF MALIBU

Subject: Item 4.A. – Hosted Short-Term Rental Ordinance

From: Scott Dittrich [redacted]
Sent: Tuesday, October 20, 2020 2:49 PM
To: Rick Mullen <rmullen@malibucity.org>; Skylar Peak <speak@malibucity.org>; Jefferson Wagner <jwagner@malibucity.org>; Karen Farrer <kfarrer@malibucity.org>; Mikke Pierson <mpierson@malibucity.org>; Heather Glaser <hglaser@malibucity.org>
Subject: Re: Item 4.A. – Hosted Short-Term Rental Ordinance

Dear Mayor Pierson and council,

I would suggest that he carve out is much too broad. We should limit it to single rental during the year. This mean the property owner would have but one renter during their vacation. Since they are gone, they would need to designate a representative would be close enough to respond to any complaint.

Thanks you

Scott Dittrich

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/26/20
Agenda Item # 4A

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 10/26/20 Agenda File

RECEIVED
Oct 26 2020
CITY CLERKS OFFICE
CITY OF MALIBU

Heather Glaser

From: Scott Dittrich [redacted]
Sent: Monday, October 26, 2020 10:35 AM
To: Kraig Hill; Rick Mullen; Skylar Peak; Jefferson Wagner; Karen Farrer; Mikke Pierson; Heather Glaser
Subject: Re: Item 4.A. – Hosted Short-Term Rental Ordinance

Kraig makes a good point about designated owners. What was done in the wee hours of the morning was far too broad and vague. Remembering if a rental passes 30 days, it is no longer short term and thus falls outside of the ordinance. I'd suggest 3 weeks total and no more than 3 "guests." Either that or kill this exception entirely. The limit on the number of guest is crucial to preserve some tranquility to the neighbors.

Thanks for all the work on this

Scott Dittrich

FILED
City of Malibu
Office of the City Clerk
Meeting Date 10/26/2020
Agenda Item # 4A

CC: Council; CM; CA ; PL____; Ref. Binder; Original to 10/26/2020___ Agenda File



Short-Term Rental Regulations

Hosted Short-Term Rental Ordinance and Local Coastal Program Amendment

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Public Hearing November 5, 2020



The Hosted Ordinance proposes to regulate the short-term rental of residential property similar to the Santa Monica Home-Sharing Ordinance with modifications to address unique Malibu conditions as directed by the City Council

Hosted Ordinance Permit System

Two Distinct Permit Types

Hosted STR

- SFR Owner's Primary Residence
- Owner or Designated Operator lives on site
- Physically on site between 9 pm and 6 am

Multifamily STR

- MF Property Owner
- Not required to live on site
- Rent up to 40% & no more than two units as STRs (one unit of a Duplex)

Hosted Ordinance

STR Permit General Provisions

- Annual permits for all STRs
- Natural person/owner can only have one active permit
- 24/7 property contact
- Maximum occupancy
- Neighborhood notification
- Compliance with all municipal and fire codes
- OWTS Permit
- Advertisement requirements
- Fine structure
- Cause for denial or revocation of permits

Hosting Platform Liability

Based on the Santa Monica Home-Sharing Ordinance

- Collect and remit Transient Occupancy Tax
- Disclose STR information to the City on a regular basis
- Prohibited from completing any booking transaction for a STR that is not on the City's approved STR registry
- Prohibited from collecting or receiving a fee for facilitating or providing services ancillary to an unpermitted STR
- Safe harbor provision

Proposed Hosted Ordinance

Revised Per Council's Direction from the September 14 Public Hearing

- Limit the time the designated operator can serve as "host" to 60 days
- Require that owner or designated operator be present onsite between 9 pm and 6 am
- Allow guest houses to be used for STR
- Cap short-term rental on multifamily parcels to 40% but no more than two units
- Allow one unit in duplexes to be rented as a STR as long as the owner lives onsite in the other unit

Proposed Local Coastal Program Amendment

Summary of LCPA

The LCPA serves to memorialize the permitted short-term rental uses specified in the ZTA. The details of the STR permitting regulations are not included to allow for them to be adjusted from time to time as needed.

hosted ordinance largely mirrors the administrative processes implemented by the enforcement ordinance
hosted ordinance largely mirrors the administrative processes implemented by the enforcement ordinance

Short-Term Rental Hosted Ordinance

Next Steps

Hosted Ordinance → Submit to CCC → LPCA Process → Final Adoption → Implementation

Enforcement Ordinance → Effective January 15, 2021
Designed to be superseded by the Hosted Ordinance

The Hosted Ordinance largely mirrors the administrative processes implemented by the Enforcement Ordinance to facilitate implementation of the Hosted Ordinance once the LCPA is certified by CCC.



Short-Term Rental Regulations

Hosted Short-Term Rental Ordinance and Local Coastal Program Amendment

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Public Hearing November 5, 2020

City of Malibu

MEMORANDUM

To: Mayor Pierson and the Honorable Members of the City Council, City Manager, City Attorney, Department Heads, City Employees, KBUU, Malibu Surfside News, and The Malibu Times

From: Heather Glaser, City Clerk

Date: November 6, 2020

Re: Actions from the November 5, 2020 Malibu City Council Adjourned Regular meeting

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At the City Council Adjourned Regular meeting on Thursday, November 5, 2020, the Council took the actions listed below with follow-up by various staff members shown in parentheses:

1) Presented a commendation to Planning Director Bonnie Blue, upon her retirement, in recognition of her service to the City

2) Adopted Ordinance No. 473 requiring the use of face coverings during the COVID-19 pandemic and finding the same exempt from the California Environmental Quality Act (City Clerk)

3) Allowed and approved warrant demand numbers 61510-61610 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 669 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of $4,449,837.75. City of Malibu payroll check number 5132 and ACH deposits were issued in the amount of $209,940.74 (Administration)

4) Approved the minutes for the September 14, 2020 Malibu City Council Regular meeting (City Clerk)

5) Received and filed the update on staff's implementation of the Coastal Development Permit extension policy (Planning)

6) Authorized the Mayor to execute Amendment No. 1 to the Professional Services Agreement with Landscape Development, Inc. for landscape maintenance services at Charmlee Wilderness Park (Community Services)

7) 1) Introduced on first reading Ordinance No. 472 (Hosted Ordinance) amending portions of the Local Coastal Program (LCP) Local Implementation Plan and amending Title 17 (Zoning) of the Malibu Municipal Code adding Chapter 17.55 (Short-term Rental Ordinance) to establish provisions to regulate short-term rental of property citywide and finding the action exempt from the California Environmental Quality Act (CEQA); 2) directed staff to schedule

second reading and adoption of Ordinance No. 472 for the November 23, 2020 Regular City Council Meeting; and 3) adopted Resolution No. 20-51 amending LCP Land Use Plan Chapter 5 to address short-term rental use in residential zones and finding the action exempt from CEQA (Planning)

8) 1) Conducted the Public Hearing; 2) adopted Resolution No. 20-57 amending the Fee Schedule for Fiscal Year 2020-2021 to add a Short-term Rental (STR) Permit Fee and finding the action to be exempt from the California Environmental Quality Act; and 3) directed staff to bring back a report on the STR Permit Fee process in six months. (Administration)

9) Continued to the November 9, 2020 City Council Regular meeting Big Rock Mesa Landslide Assessment District update (Public Works)

RESOLUTION NO. 20-51

A RESOLUTION OF THE CITY OF MALIBU DETERMINING LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003 IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND AMENDING THE LOCAL COASTAL PROGRAM LAND USE PLAN TO MODIFY CHAPTER 3 PERTAINING TO SHORT-TERM RENTALS (CITYWIDE)

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

SECTION 1. Recitals.

A. The City of Malibu wishes to address the potential impacts of short-term rental of residential property and protect the neighborhood character in the City by adopting regulations for the short-term rental of property that prohibit use inconsistent with the General Plan and impose prohibitions and regulations consistent thereof.

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

C. On May 23, 2017, the Zoning Ordinance Revisions and Code Enforcement Subcommittee of the City Council reviewed a draft ordinance (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

D. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

E. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

F. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

G. The September 11, 2018 City Council Regular Meeting was cancelled.

H. On September 26, 2018, the City Council held a duly noticed public hearing

on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

I. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

J. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

K. On June 24, 2019, the City Council authorized the City Manager to execute the Professional Services Agreement with Raftelis Financial Consultants, Inc. for financial analysis services to examine the short- and long-term financial implications of a potential ban on short-term rentals.

L. On October 3, 2019, the City Council Administration and Finance Subcommittee, received a report the short and long-term financial implications of a potential ban on STRs and recommended that requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

M. On October 28, 2019, the City Council received financial analysis on the implications and potential impacts of a ban on short-term rentals. Council also discussed the potential options and procedures for banning short-term rentals, whether an amendment to the Local Coastal Program (LCP) is necessary for a short-term rental ban, and approaches other coastal cities have taken to legislate short-term rentals and associated litigation in those cities. Council directed staff to initiate a ZTA and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals to include provisions similar to Santa Monica's home-sharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance (ZTA No. 17-002) to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

N. On December 3, 2019, in compliance with Local Coastal Program (LCP) Local Implementation Plan (LIP) Chapter 19, the City Council adopted Resolution No. 19-53 to initiate Local Coastal Program (LCP) Amendment No. 19-003 to consider changes to the Malibu LCP and Zoning Text Amendment (ZTA) No. 19-005 to consider changes to Title 17 (Zoning) of the Malibu Municipal Code (MMC) and provided direction to staff on the definitions and regulations to include in the proposed amendments.

O. On March 5, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

P. Beginning in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings began to be held virtually in April. Legislative matters drawing extensive public interest were temporarily postponed.

Q. On March 12, 2020, the Special Planning Commission meeting of March 30, 2020 was adjourned to April 6, 2020 due to the COVID-19 pandemic.

R. On April 6, 2020, the Planning Commission continued the item to a date uncertain.

S. On June 8, 2020, Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission with a virtual public hearing.

T. On July 2, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

U. On July 16, 2020, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu.

V. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City Council adopt ZTA No. 19-005, with modifications, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

W. On August 20, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu.

X. On September 14, 2020, the City Council held a duly noticed public hearing on the Hosted Amendments (LCPA No. 19-003 and ZTA No. 19-005), reviewed and considered the staff report, the recommendation of the Planning Commission, written

reports, public testimony, and other information in the record. Council continued to a date uncertain the public hearing and directed staff to bring back the Hosted Amendments (Ordinance No. 472 and Resolution No. 20-51) amended to: a) allow guest houses to be used for short-term rentals but require that a short-term rental permit designate only one specific unit on the single-family residential property to be listed, b) require the property owner to be onsite during short-term rental except that a designated operator, other than the owner, is allowed to host short-term rentals for up to two months cumulatively per calendar year with two-week notice to the City modifying the short-term rental permit, c) require designated operator to be present onsite between the hours of 9:00 p.m. and 6:00 a.m. during hosted short-term rentals, d) allow one unit of a duplex to be rented short-term if the owner lives onsite in the other, and e) allow up to 40%, up to two units maximum (whichever is fewer), of multifamily properties to be rented short-term if the other onsite units are rented long-term.

Y. On September 14, 2020, the City Council also approved on first reading Ordinance No. 468 (the Enforcement Ordinance) and adopted it on September 29, 2020.

Z. On October 1, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

AA. On October 26, 2020, the City Council Regular meeting was adjourned to November 5, 2020.

BB. On November 5, 2020, the City Council held a duly noticed public hearing on the Hosted Amendments (LCPA No. 19-003 and ZTA No. 19-005) consisting of Ordinance No. 472 and Resolution No. 20-51, reviewed and considered the staff report, written reports, public testimony, and other information in the entire record of the City's consideration of short-term rental regulations.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCPA and therefore, does not apply to this application. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect

SECTION 3. Local Coastal Program Amendment Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed LCPA No. 19-003 meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act as follows:

A. The amendment maintains standards to require that development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal

resources. In particular, the amendment will assure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

B. The amendment will be consistent with the following policies:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

SECTION 4. Local Coastal Program Amendment No. 19-003.

LCPA No. 19-003 includes the following amendments.

A. Amend LUP Chapter 5 (New Development), Section C (Land Use Policies), Subsection 2 (Land Use Designations) to replace the land use designation descriptions below with the amended language to read as follows:

RURAL RESIDENTIAL (RR): The RR designation allows sensitively designed, large lot single family residential development, with a range of maximum densities from one dwelling per acre to one dwelling unit per 40 acres. Minimum lot sizes range from 1 to 40 acres, with agricultural uses and animal keeping as accessory uses to approved residential development. Public open space and recreation may be permitted. Short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City. The following maximum residential density standards shall apply:

RR1	One dwelling unit per acre
RR2	One dwelling unit per 2 acres
RR5	One dwelling unit per 5 acres
RR10	One dwelling units per 10 acres
RR20	One dwelling unit per 20 acres
RR40	One dwelling unit per 40 acres

SINGLE-FAMILY RESIDENTIAL (SF): This land use designation allows single family residential development at higher density than the rural residential category. It is intended to enhance the rural characteristics of the community by maintaining low-density single-family residential development on lots ranging from 1/4 to 1 acre in size. Single-Family Low (SFL) allows a maximum density of 2 dwelling units per acre, with a minimum lot size of 0.5 acre. Single-Family Medium (SFM) allows a maximum density of 4 dwelling units per acre, with a minimum lot size of 0.25 acre. Public open space and recreation may be permitted. Short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MOBILE HOME RESIDENTIAL (MHR): The MHR designation is intended to accommodate existing mobile home parks and associated facilities. Short-term rental use of single-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

MULTI-FAMILY RESIDENTIAL (MF): The MF designation provides for multi-family residential developments, such as duplexes, condominiums, stock cooperatives, and apartments. The Multi-family Residential (MF) designation allows a maximum density of six units per acre on a minimum lot size of 20,000 square feet. Public open space and recreation may be permitted. Short-term rental use of multi-family residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

B. Amend LUP Policy 5.20 to read as follows:

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other

policies of the LCP may further limit the maximum allowable density of development. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

C. Amend LUP Policy 2.34 to read as follows:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources. Short-term rental use of residential property may be permitted pursuant to a valid short-term rental permit issued by the City.

SECTION 5. Approval.

Subject to the contingency set forth in Section 8, the City Council hereby adopts LCPA No. 19-003, amending the LCP.

SECTION 6. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA No. 3-001 to the CCC for certification, in conformance with the submittal requirements specified in California Code of Regulations, Title 14, Division 5.5., Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations section 13551, et. seq.

SECTION 7. Effectiveness.

The LCP amendment approved in this Resolution shall become effective only upon its certification by the CCC.

SECTION 8. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 5th day of November 2020.

MIKKE PIERSON, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:

CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-51 was passed and adopted by the City Council of the City of Malibu at the adjourned regular meeting thereof held on the 5th day of November 2020 by the following vote:

AYES:	4	Councilmembers:	Farrer, Mullen, Peak, Pierson
NOES:	0		
ABSTAIN:	1	Councilmember:	Wagner
ABSENT:	0		

HEATHER GLASER, City Clerk
(seal)

This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Order (revised October 23, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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 citycouncil@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 by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Malibu City Council
Regular Meeting Agenda
(to be held during COVID-19 emergency)

Monday, November 23, 2020

6:30 P.M. –CITY COUNCIL REGULAR MEETING

Various Teleconference Locations

YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT

MALIBUCITY.ORG/VIDEO

Six-thirty p.m. **Regular Session**

Call to Order - Mayor

Roll Call - Recording Secretary

Pledge of Allegiance

Approval of Agenda

Report on Posting of Agenda – November 13, 2020

1. Ceremonial/Presentations

None.

2. Written and Oral Communications from the Public

A. Communications from the Public concerning matters which are not on the agenda but for which the City Council has subject matter jurisdiction. City Council may not act on these matters except to refer the matters to staff or schedule the matters for a future agenda.

B. Commission / Committee / City Manager Updates

C. City Council Subcommittee reports / Mayor and Councilmember meeting attendance, reports and inquiries

3. Consent Calendar

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 472

Recommended Action: Conduct second reading, unless waived, and adopt Ordinance No. 472 amending the Local Coastal Program (Local Coastal Program Amendment No. 19-003) and Title 17 (Zoning) of the Malibu Municipal Code (Zoning Text Amendment No. 19-005) regulating the rental of residential units for 30 days or less (Short-term Rentals) including, but not limited to, requiring the presence of an onsite host during short-term rentals and other restrictions, and clarifying permitted uses related to short-term rental citywide, amending Chapter 15.44 pertaining to operating permits for onsite wastewater treatment systems and finding the action exempt from the California Environmental Quality Act.

Staff Contact: City Clerk Glaser, 456-2489, ext. 228

B. New Items

1. Waive Further Reading

Recommended Action: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

Staff Contact: City Attorney Hogin, 456-2489, ext. 228

2. Approve Warrants

Recommended Action: Allow and approve warrant demand 61712-61807 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 671 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of $2,291,699.06. City of Malibu payroll check number 5136 and ACH deposits were issued in the amount of $248,870.15.

Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

3. Approval of Minutes

Recommended Action: Approve the minutes for the October 12, 2020 Malibu City Council Special meeting, October 12, 2020 Malibu City Council Regular meeting, and October 28, 2020 Malibu City Council Special meeting.

Staff Contact: City Clerk Glaser, 456-2489, ext. 228

4. Amendment to Professional Services Agreement with Digital Maps Products

Recommended Action: Authorize the Mayor to execute Amendment No. 1 to the Professional Services Agreement with Digital Map Products for geographic information system (GIS) software subscription services.

Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

5. Los Angeles County Measure R Transportation Funding Agreements Amendments and Measure M Funding Agreement

Recommended Action: 1) Authorize the Mayor to execute the Measure R Funding Agreement Amendments for the Civic Center Way Improvements and for the Pacific Coast Highway Median Improvements projects; and 2) Authorize the Mayor to execute the Measure M Funding Agreement for the Westward Beach Road Improvements project.

Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

6. Professional Services Agreement with 30 Three Sixty Public Finance, Inc.

Recommended Action: Authorize the Mayor to execute a Professional Services Agreement with 30 Three Sixty Public Finance, Inc. to provide consulting services for the formation of the proposed Cliffside Drive Utilities Undergrounding District.

Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

7. 25321 Malibu Road Utility Easement Acceptance

   Recommended Action: 1) Adopt Resolution No. 20-62 accepting a utility easement adjacent to 25321 Malibu Road; and 2) Direct staff to record a certified copy of the resolution and easement in the Office of the County Recorder.

   Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

8. Malibu Little League Fee Waiver

   Recommended Action: Approve the request from Malibu Little League to waive facility use fees for the fall baseball program at the Malibu Bluffs Park.

   Staff Contact: Community Services Director Bobbett, 456-2489, ext. 225

9. Adoption of Amended Resolution Pertaining to the Deadlines to Initiate the Application Process for In-kind Disaster Rebuild Projects

   Recommended Action: Adopt Resolution No. 20-52A initiating a zoning text amendment to Chapter 17.60.020 of the Malibu Municipal Code to add one year to the deadlines in Subsection (C) to initiate the application process and obtain building permits to rebuild a legal nonconforming structure that was damaged or destroyed pursuant to a planning verification.

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

10. Amendment to Professional Services Agreement with Turbo Data Systems for Parking Citation Processing Services

    Recommended Action: Authorize the Mayor to execute Amendment No. 5 to the Professional Services Agreement with Turbo Data Systems for Parking Citation Processing Services.

    Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

11. Amendment to Professional Services Agreement with SDI Presence LLC

    Recommended Action: Authorize the Mayor to execute Amendment No. 1 to the Professional Services Agreement with SDI Presence LLC for information technology administrative services.

    Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

4. Ordinances and Public Hearings

A. Appeal No. 19-010 - Appeal of Planning Commission Resolution No. 19-25 (20238 Piedra Chica Road; Appellants: Colin Drummond; Applicant: Sakahara Allen Architects; Property Owners: Reza Nebavi and Maryam Akbar)

Recommended Action: Continue the item to a date uncertain.

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

B. Code Amendment to Extend Deadlines for Legal Nonconforming In-kind Disaster Rebuild Projects

Recommended Action: 1) Adopt Ordinance No. 476 determining the proposed code amendment is categorically exempt from the California Environmental Quality Act (CEQA) and approving Zoning Text Amendment No. 20-002 to amend Malibu Municipal Code Section 17.060.020(C) to extend the deadlines by one year to initiate the planning application process, obtain building permits, and the total time allotted for an extension to rebuild a legal nonconforming structure that was damaged or destroyed in the Woolsey Fire; and 2) Direct staff to schedule a second reading and adoption of Ordinance No. 476 for the December 14, 2020 Regular City Council meeting.

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

C. Schedule of Parking Citation Penalties (Continued from November 9, 2020)

Recommended Action: 1) Conduct the Public Hearing; 2) Adopt Resolution No. 20-59 amending the City's Schedule of Parking Citation Penalties, repealing Resolution No. 15-09, and finding the action to be exempt from the California Environmental Quality Act; and 3) Direct the Public Safety Commission to review the Schedule of Parking Citation Penalties annually, or at another frequency determined by the City Council.

Staff Contact: Public Safety Manager Dueñas, 456-2489, ext. 313

D. Local Coastal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 – An amendment to the Local Coastal Program and Malibu Municipal Code Allowing Stand-Alone Surface Parking Lots in Commercial Zones as a Conditionally Permitted Commercial Use (Continued from November 9, 2020)

Recommended Action: 1) Adopt Ordinance No. 475 determining the project is categorically exempt from the California Environmental Quality Act (CEQA) and approving Local Coastal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 to amend the Local Coastal Program and the Malibu Municipal Code to allow stand-alone surface parking lots in the Commercial General (CG), Community Commercial (CC), and Commercial Neighborhood (CN) zoning districts as a conditionally permitted commercial use citywide; 2) Direct staff to schedule second reading and adoption of Ordinance No. 475 for the December 14, 2020 Regular City Council meeting; and 3) Adopt Resolution No. 20-58 adopting guidelines and standards for parking lot tree selection and planting in stand-alone surface parking lots and determining the same exempt from the California Environmental Quality Act.

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

5. Old Business

None.

6. New Business

None.

7. Council Items

A. Malibu Film Society Drive-In Movie Event Fee Waiver and Sponsorship

Recommended Action: Consider whether to approve the request from the Malibu Film Society to waive event fees and provide City sponsorship for a two-night drive-in movie event at the Ioki Property.

Staff Contact: Community Services Director Bobbett, 456-2489, ext. 225

Adjournment

Future Meetings

Monday, December 14, 2020	6:30 p.m.	Regular City Council Meeting	Location TBD
Monday, December 28, 2020		CANCELLED	
Monday, January 11, 2020	6:30 p.m.	Regular City Council Meeting	Location TBD

Guide to the City Council Proceedings

As a result of the Coronavirus (COVID-19) pandemic, the City is under a state of local emergency, as well as states of emergency that have been declared in the County of Los Angeles, state of California, and a federal emergency declared by the President of the United States. At the direction of the Governor, starting March 19, 2020, the entire state is subject to stay-at-home orders. These measures are imposed to reduce the risk of spreading COVID-19. To comply with these emergency measures, the City Council meeting will be open and public but conducted via teleconference only. This way the public, the staff, and the Council will not be physically in the same place.

The Oral Communication portion of the agenda is for members of the public to present items, which are not listed on the agenda but are under the subject matter jurisdiction of the City Council. No action may be taken under, except to direct staff unless the Council, by a two-thirds vote, determines that there is a need to take immediate action and that need came to the attention of the City after the posting of the agenda. Although no action may be taken, the Council and staff will follow up, at an appropriate time, on those items needing response. Each speaker is limited to three (3) minutes. Members of the public wishing to speak during the meeting must participate through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Mayor and then you must be present in the Zoom conference to be recognized. Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Items in Consent Calendar Section A have already been considered by the Council at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Council. If discussion is desired, an item may be removed from the Consent Calendar for individual consideration. Councilmembers may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from the Consent Calendar will be taken up by the Council following the action on the Consent Calendar. The Council first will take up the items for which public speaker requests have been submitted.

For Public Hearings involving zoning matters the appellant and applicant will be given 15 minutes each to present their position to the City Council, including rebuttal time. All other testimony shall follow the rules as set forth under Oral Communication. In order to speak, individuals must visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Old Business items have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Public comment shall follow the rules as set forth under Oral Communication.

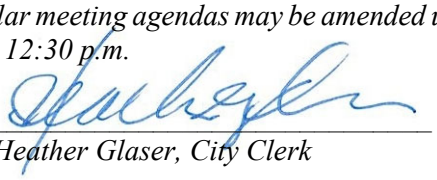
Items in New Business are items, which are appearing for the first time for formal action. Public comment shall follow the rules as set forth under Oral Communication.

City Council Items are items, which individual members of the City Council may bring up for action, to propose future agenda items or to suggest future staff assignments. No new items will be taken-up after 10:30 p.m. without a two-thirds vote of the City Council.

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The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Environmental Sustainability Director Yolanda Bundy, (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II].

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. Regular and Adjourned Regular meeting agendas may be amended up to 72 hours in advance of the meeting. Dated this 13th day of November 2020 at 12:30 p.m.



Heather Glaser, City Clerk

This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Order (revised October 23, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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 citycouncil@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 by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Amended[1] Malibu City Council
Regular Meeting Agenda
(to be held during COVID-19 emergency)

Monday, November 23, 2020

6:30 P.M. –CITY COUNCIL REGULAR MEETING

Various Teleconference Locations

YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT

MALIBUCITY.ORG/VIDEO

Six-thirty p.m. **Regular Session**

Call to Order - Mayor

Roll Call - Recording Secretary

Pledge of Allegiance

Approval of Agenda

Report on Posting of Agenda – November 13, 2020; *Amended Agenda posted November 19, 2020*

1 *See addition of Council Item No. 7.B.*

1. Ceremonial/Presentations

None.

2. Written and Oral Communications from the Public

A. Communications from the Public concerning matters which are not on the agenda but for which the City Council has subject matter jurisdiction. City Council may not act on these matters except to refer the matters to staff or schedule the matters for a future agenda.

B. Commission / Committee / City Manager Updates

C. City Council Subcommittee reports / Mayor and Councilmember meeting attendance, reports and inquiries

3. Consent Calendar

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 472

Recommended Action: Conduct second reading, unless waived, and adopt Ordinance No. 472 amending the Local Coastal Program (Local Coastal Program Amendment No. 19-003) and Title 17 (Zoning) of the Malibu Municipal Code (Zoning Text Amendment No. 19-005) regulating the rental of residential units for 30 days or less (Short-term Rentals) including, but not limited to, requiring the presence of an onsite host during short-term rentals and other restrictions, and clarifying permitted uses related to short-term rental citywide, amending Chapter 15.44 pertaining to operating permits for onsite wastewater treatment systems and finding the action exempt from the California Environmental Quality Act.

Staff Contact: City Clerk Glaser, 456-2489, ext. 228

B. New Items

1. Waive Further Reading

Recommended Action: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

Staff Contact: City Attorney Hogin, 456-2489, ext. 228

2. Approve Warrants

Recommended Action: Allow and approve warrant demand 61712-61807 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 671 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of $2,291,699.06. City of Malibu payroll check number 5136 and ACH deposits were issued in the amount of $248,870.15.

Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

3. Approval of Minutes

Recommended Action: Approve the minutes for the October 12, 2020 Malibu City Council Special meeting, October 12, 2020 Malibu City Council Regular meeting, and October 28, 2020 Malibu City Council Special meeting.

Staff Contact: City Clerk Glaser, 456-2489, ext. 228

4. Amendment to Professional Services Agreement with Digital Maps Products

Recommended Action: Authorize the Mayor to execute Amendment No. 1 to the Professional Services Agreement with Digital Map Products for geographic information system (GIS) software subscription services.

Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

5. Los Angeles County Measure R Transportation Funding Agreements Amendments and Measure M Funding Agreement

Recommended Action: 1) Authorize the Mayor to execute the Measure R Funding Agreement Amendments for the Civic Center Way Improvements and for the Pacific Coast Highway Median Improvements projects; and 2) Authorize the Mayor to execute the Measure M Funding Agreement for the Westward Beach Road Improvements project.

Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

6. Professional Services Agreement with 30 Three Sixty Public Finance, Inc.

Recommended Action: Authorize the Mayor to execute a Professional Services Agreement with 30 Three Sixty Public Finance, Inc. to provide consulting services for the formation of the proposed Cliffside Drive Utilities Undergrounding District.

Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

7. 25321 Malibu Road Utility Easement Acceptance

   Recommended Action: 1) Adopt Resolution No. 20-62 accepting a utility easement adjacent to 25321 Malibu Road; and 2) Direct staff to record a certified copy of the resolution and easement in the Office of the County Recorder.

   Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

8. Malibu Little League Fee Waiver

   Recommended Action: Approve the request from Malibu Little League to waive facility use fees for the fall baseball program at the Malibu Bluffs Park.

   Staff Contact: Community Services Director Bobbett, 456-2489, ext. 225

9. Adoption of Amended Resolution Pertaining to the Deadlines to Initiate the Application Process for In-kind Disaster Rebuild Projects

   Recommended Action: Adopt Resolution No. 20-52A initiating a zoning text amendment to Chapter 17.60.020 of the Malibu Municipal Code to add one year to the deadlines in Subsection (C) to initiate the application process and obtain building permits to rebuild a legal nonconforming structure that was damaged or destroyed pursuant to a planning verification.

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

10. Amendment to Professional Services Agreement with Turbo Data Systems for Parking Citation Processing Services

    Recommended Action: Authorize the Mayor to execute Amendment No. 5 to the Professional Services Agreement with Turbo Data Systems for Parking Citation Processing Services.

    Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

11. Amendment to Professional Services Agreement with SDI Presence LLC

    Recommended Action: Authorize the Mayor to execute Amendment No. 1 to the Professional Services Agreement with SDI Presence LLC for information technology administrative services.

    Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

4. Ordinances and Public Hearings

A. Appeal No. 19-010 - Appeal of Planning Commission Resolution No. 19-25 (20238 Piedra Chica Road; Appellants: Colin Drummond; Applicant: Sakahara Allen Architects; Property Owners: Reza Nebavi and Maryam Akbar)

Recommended Action: Continue the item to a date uncertain.

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

B. Code Amendment to Extend Deadlines for Legal Nonconforming In-kind Disaster Rebuild Projects

Recommended Action: 1) Adopt Ordinance No. 476 determining the proposed code amendment is categorically exempt from the California Environmental Quality Act (CEQA) and approving Zoning Text Amendment No. 20-002 to amend Malibu Municipal Code Section 17.060.020(C) to extend the deadlines by one year to initiate the planning application process, obtain building permits, and the total time allotted for an extension to rebuild a legal nonconforming structure that was damaged or destroyed in the Woolsey Fire; and 2) Direct staff to schedule a second reading and adoption of Ordinance No. 476 for the December 14, 2020 Regular City Council meeting.

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

C. Schedule of Parking Citation Penalties (Continued from November 9, 2020)

Recommended Action: 1) Conduct the Public Hearing; 2) Adopt Resolution No. 20-59 amending the City's Schedule of Parking Citation Penalties, repealing Resolution No. 15-09, and finding the action to be exempt from the California Environmental Quality Act; and 3) Direct the Public Safety Commission to review the Schedule of Parking Citation Penalties annually, or at another frequency determined by the City Council.

Staff Contact: Public Safety Manager Dueñas, 456-2489, ext. 313

D. Local Coastal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 – An amendment to the Local Coastal Program and Malibu Municipal Code Allowing Stand-Alone Surface Parking Lots in Commercial Zones as a Conditionally Permitted Commercial Use (Continued from November 9, 2020)

Recommended Action: 1) Adopt Ordinance No. 475 determining the project is categorically exempt from the California Environmental Quality Act (CEQA) and approving Local Coastal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 to amend the Local Coastal Program and the Malibu Municipal Code to allow stand-alone surface parking lots in the Commercial General (CG), Community Commercial (CC), and Commercial Neighborhood (CN) zoning districts as a conditionally permitted commercial use citywide; 2) Direct staff to schedule second reading and adoption of Ordinance No. 475 for the December 14, 2020 Regular City Council meeting; and 3) Adopt Resolution No. 20-58 adopting guidelines and standards for parking lot tree selection and planting in stand-alone surface parking lots and determining the same exempt from the California Environmental Quality Act.

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

5. Old Business

None.

6. New Business

None.

7. Council Items

A. Malibu Film Society Drive-In Movie Event Fee Waiver and Sponsorship

Recommended Action: Consider whether to approve the request from the Malibu Film Society to waive event fees and provide City sponsorship for a two-night drive-in movie event at the Ioki Property.

Staff Contact: Community Services Director Bobbett, 456-2489, ext. 225

B. Use of City Hall Parking Lot for Drive-Through COVID-19 Vaccination Site (Councilmember Farrer and Mayor Pierson)

Recommended Action: At the request of Councilmember Farrer and Mayor Pierson, 1) Consider whether to allow the City Hall parking lot to be used as a drive-through COVID- 19 vaccination site; and 2) Authorize the Mayor to execute any agreements necessary to facilitate the use of the City Hall parking lot as a COVID-19 vaccination site.

Staff Contact: City Manager Feldman, 456-2489, ext. 226

Adjournment

Future Meetings

Monday, December 14, 2020	6:30 p.m.	Regular City Council Meeting	Location TBD
Monday, December 28, 2020		CANCELLED	
Monday, January 11, 2020	6:30 p.m.	Regular City Council Meeting	Location TBD

Guide to the City Council Proceedings

As a result of the Coronavirus (COVID-19) pandemic, the City is under a state of local emergency, as well as states of emergency that have been declared in the County of Los Angeles, state of California, and a federal emergency declared by the President of the United States. At the direction of the Governor, starting March 19, 2020, the entire state is subject to stay-at-home orders. These measures are imposed to reduce the risk of spreading COVID-19. To comply with these emergency measures, the City Council meeting will be open and public but conducted via teleconference only. This way the public, the staff, and the Council will not be physically in the same place.

The Oral Communication portion of the agenda is for members of the public to present items, which are not listed on the agenda but are under the subject matter jurisdiction of the City Council. No action may be taken under, except to direct staff unless the Council, by a two-thirds vote, determines that there is a need to take immediate action and that need came to the attention of the City after the posting of the agenda. Although no action may be taken, the Council and staff will follow up, at an appropriate time, on those items needing response. Each speaker is limited to three (3) minutes. Members of the public

wishing to speak during the meeting must participate through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Mayor and then you must be present in the Zoom conference to be recognized. Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Items in Consent Calendar Section A have already been considered by the Council at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Council. If discussion is desired, an item may be removed from the Consent Calendar for individual consideration. Councilmembers may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from the Consent Calendar will be taken up by the Council following the action on the Consent Calendar. The Council first will take up the items for which public speaker requests have been submitted.

For Public Hearings involving zoning matters the appellant and applicant will be given 15 minutes each to present their position to the City Council, including rebuttal time. All other testimony shall follow the rules as set forth under Oral Communication. In order to speak, individuals must visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Old Business items have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Public comment shall follow the rules as set forth under Oral Communication.

Items in New Business are items, which are appearing for the first time for formal action. Public comment shall follow the rules as set forth under Oral Communication.

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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. Regular and Adjourned Regular meeting agendas may be amended up to 72 hours in advance of the meeting. Dated this 19th day of November 2020 at 2:00 p.m.

Heather Glaser, City Clerk

This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Order (*revised November 19, 2020*). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

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Second Amended[1] Malibu City Council Regular Meeting Agenda *(to be held during COVID-19 emergency)*

Monday, November 23, 2020

6:00 P.M. - CLOSED SESSION
Various Teleconference Locations

6:30 P.M. –CITY COUNCIL REGULAR MEETING
Various Teleconference Locations
YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT
MALIBUCITY.ORG/VIDEO

Six p.m. Convene for Purpose of Closed Session

Call to Order - Mayor

Public Comment on Closed Session Items

Recess to Closed Session
This time has been set aside for the City Council to meet in a closed session to discuss matters pursuant to Government Code Section 54956.9(d). Based on the advice of the City Attorney, discussion in open session concerning these matters would prejudice the position of the City in this litigation. The City Attorney will give an additional oral report regarding the Closed Session at the beginning of the next regular City Council meeting. At

1 *See addition of Closed Session and revised County order date. The first amended agenda added Council Item No. 7.B.*

the conclusion of the Closed Session, the Council may continue any item listed on the Closed Session agenda to the Open Session agenda for discussion or to take formal action as it may deem appropriate.

Conference with Legal Counsel – Anticipated litigation

1. *Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code section 54956.9*
   Number of potential cases: 1

Six-thirty p.m. Regular Session

Call to Order - Mayor

Roll Call - Recording Secretary

Pledge of Allegiance

Closed Session Report

Approval of Agenda

Report on Posting of Agenda – November 13, 2020; *Amended Agenda posted November 19, 2020; Second Amended Agenda posted November 20, 2020*

1. Ceremonial/Presentations

None.

2. Written and Oral Communications from the Public

A. Communications from the Public concerning matters which are not on the agenda but for which the City Council has subject matter jurisdiction. City Council may not act on these matters except to refer the matters to staff or schedule the matters for a future agenda.

B. Commission / Committee / City Manager Updates

C. City Council Subcommittee reports / Mayor and Councilmember meeting attendance, reports and inquiries

3. Consent Calendar

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 472

Recommended Action: Conduct second reading, unless waived, and adopt Ordinance No. 472 amending the Local Coastal Program (Local Coastal Program Amendment No. 19-003) and Title 17 (Zoning) of the Malibu Municipal Code (Zoning Text Amendment No. 19-005) regulating the rental of residential units for 30 days or less (Short-term Rentals) including, but not limited to, requiring the presence of an onsite host during short-term rentals and other restrictions, and clarifying permitted uses related to short-term rental citywide, amending Chapter 15.44 pertaining to operating permits for onsite wastewater treatment systems and finding the action exempt from the California Environmental Quality Act.

Staff Contact: City Clerk Glaser, 456-2489, ext. 228

B. New Items

1. Waive Further Reading

Recommended Action: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

Staff Contact: City Attorney Hogin, 456-2489, ext. 228

2. Approve Warrants

Recommended Action: Allow and approve warrant demand 61712-61807 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 671 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of $2,291,699.06. City of Malibu payroll check number 5136 and ACH deposits were issued in the amount of $248,870.15.

Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

3. Approval of Minutes

Recommended Action: Approve the minutes for the October 12, 2020 Malibu City Council Special meeting, October 12, 2020 Malibu City Council Regular meeting, and October 28, 2020 Malibu City Council Special meeting.

Staff Contact: City Clerk Glaser, 456-2489, ext. 228

4. Amendment to Professional Services Agreement with Digital Maps Products

   Recommended Action: Authorize the Mayor to execute Amendment No. 1 to the Professional Services Agreement with Digital Map Products for geographic information system (GIS) software subscription services.

   Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

5. Los Angeles County Measure R Transportation Funding Agreements Amendments and Measure M Funding Agreement

   Recommended Action: 1) Authorize the Mayor to execute the Measure R Funding Agreement Amendments for the Civic Center Way Improvements and for the Pacific Coast Highway Median Improvements projects; and 2) Authorize the Mayor to execute the Measure M Funding Agreement for the Westward Beach Road Improvements project.

   Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

6. Professional Services Agreement with 30 Three Sixty Public Finance, Inc.

   Recommended Action: Authorize the Mayor to execute a Professional Services Agreement with 30 Three Sixty Public Finance, Inc. to provide consulting services for the formation of the proposed Cliffside Drive Utilities Undergrounding District.

   Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

7. 25321 Malibu Road Utility Easement Acceptance

   Recommended Action: 1) Adopt Resolution No. 20-62 accepting a utility easement adjacent to 25321 Malibu Road; and 2) Direct staff to record a certified copy of the resolution and easement in the Office of the County Recorder.

   Staff Contact: Public Works Director DuBoux, 456-2489, ext. 339

8. Malibu Little League Fee Waiver

   Recommended Action: Approve the request from Malibu Little League to waive facility use fees for the fall baseball program at the Malibu Bluffs Park.

   Staff Contact: Community Services Director Bobbett, 456-2489, ext. 225

9. Adoption of Amended Resolution Pertaining to the Deadlines to Initiate the Application Process for In-kind Disaster Rebuild Projects

   Recommended Action: Adopt Resolution No. 20-52A initiating a zoning text amendment to Chapter 17.60.020 of the Malibu Municipal Code to add one year to the deadlines in Subsection (C) to initiate the application process and obtain building permits to rebuild a legal nonconforming structure that was damaged or destroyed pursuant to a planning verification.

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

10. Amendment to Professional Services Agreement with Turbo Data Systems for Parking Citation Processing Services

    Recommended Action: Authorize the Mayor to execute Amendment No. 5 to the Professional Services Agreement with Turbo Data Systems for Parking Citation Processing Services.

    Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

11. Amendment to Professional Services Agreement with SDI Presence LLC

    Recommended Action: Authorize the Mayor to execute Amendment No. 1 to the Professional Services Agreement with SDI Presence LLC for information technology administrative services.

    Staff Contact: Assistant City Manager Soghor, 456-2489, ext. 224

4. Ordinances and Public Hearings

A. Appeal No. 19-010 - Appeal of Planning Commission Resolution No. 19-25 (20238 Piedra Chica Road; Appellants: Colin Drummond; Applicant: Sakahara Allen Architects; Property Owners: Reza Nebavi and Maryam Akbar)

Recommended Action: Continue the item to a date uncertain.

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

B. Code Amendment to Extend Deadlines for Legal Nonconforming In-kind Disaster Rebuild Projects

Recommended Action: 1) Adopt Ordinance No. 476 determining the proposed code amendment is categorically exempt from the California Environmental Quality Act (CEQA) and approving Zoning Text Amendment No. 20-002 to amend Malibu Municipal Code Section 17.060.020(C) to extend the deadlines by one year to initiate the planning application process, obtain building permits, and the total time allotted for an extension to rebuild a legal nonconforming structure that was damaged or destroyed in the Woolsey Fire; and 2) Direct staff to schedule a second reading and adoption of Ordinance No. 476 for the December 14, 2020 Regular City Council meeting.

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

C. Schedule of Parking Citation Penalties (Continued from November 9, 2020)

Recommended Action: 1) Conduct the Public Hearing; 2) Adopt Resolution No. 20-59 amending the City's Schedule of Parking Citation Penalties, repealing Resolution No. 15-09, and finding the action to be exempt from the California Environmental Quality Act; and 3) Direct the Public Safety Commission to review the Schedule of Parking Citation Penalties annually, or at another frequency determined by the City Council.

Staff Contact: Public Safety Manager Dueñas, 456-2489, ext. 313

D. Local Coastal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 – An amendment to the Local Coastal Program and Malibu Municipal Code Allowing Stand-Alone Surface Parking Lots in Commercial Zones as a Conditionally Permitted Commercial Use (Continued from November 9, 2020)

Recommended Action: 1) Adopt Ordinance No. 475 determining the project is categorically exempt from the California Environmental Quality Act (CEQA) and approving Local Coastal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 to amend the Local Coastal Program and the Malibu Municipal Code to allow stand-alone surface parking lots in the Commercial General (CG), Community Commercial (CC), and Commercial Neighborhood (CN) zoning districts as a conditionally permitted commercial use citywide; 2) Direct staff to schedule second reading and adoption of Ordinance No. 475 for the December 14, 2020 Regular City Council meeting; and 3) Adopt Resolution No. 20-58 adopting guidelines and standards for parking lot tree selection and planting in stand-alone surface parking lots and determining the same exempt from the California Environmental Quality Act.

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

5. Old Business

None.

6. New Business

None.

7. Council Items

A. Malibu Film Society Drive-In Movie Event Fee Waiver and Sponsorship

Recommended Action: Consider whether to approve the request from the Malibu Film Society to waive event fees and provide City sponsorship for a two-night drive-in movie event at the Ioki Property.

Staff Contact: Community Services Director Bobbett, 456-2489, ext. 225

B. Use of City Hall Parking Lot for Drive-Through COVID-19 Vaccination Site (Councilmember Farrer and Mayor Pierson)

Recommended Action: At the request of Councilmember Farrer and Mayor Pierson, 1) Consider whether to allow the City Hall parking lot to be used as a drive-through COVID- 19 vaccination site; and 2) Authorize the Mayor to execute any agreements necessary to facilitate the use of the City Hall parking lot as a COVID-19 vaccination site.

Staff Contact: City Manager Feldman, 456-2489, ext. 226

Adjournment

Future Meetings

Monday, December 14, 2020	6:30 p.m.	Regular City Council Meeting	Location TBD
Monday, December 28, 2020		CANCELLED	
Monday, January 11, 2021	6:30 p.m.	Regular City Council Meeting	Location TBD

Guide to the City Council Proceedings

As a result of the Coronavirus (COVID-19) pandemic, the City is under a state of local emergency, as well as states of emergency that have been declared in the County of Los Angeles, state of California, and a federal emergency declared by the President of the United States. At the direction of the Governor, starting March 19, 2020, the entire state is subject to stay-at-home orders. These measures are imposed to reduce the risk of spreading COVID-19. To comply with these emergency measures, the City Council meeting will be open and public but conducted via teleconference only. This way the public, the staff, and the Council will not be physically in the same place.

The Oral Communication portion of the agenda is for members of the public to present items, which are not listed on the agenda but are under the subject matter jurisdiction of the City Council. No action may be taken under, except to direct staff unless the Council, by a two-thirds vote, determines that there is a need to take immediate action and that need came to the attention of the City after the posting of the agenda. Although no action may be taken, the Council and staff will follow up, at an appropriate time, on those items needing response. Each speaker is limited to three (3) minutes. Members of the public wishing to speak during the meeting must participate through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Mayor and then you must be present in the Zoom conference to be recognized. Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Items in Consent Calendar Section A have already been considered by the Council at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Council. If discussion is desired, an item may be removed from the Consent Calendar for individual consideration. Councilmembers may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from the Consent Calendar will be taken up by the Council following the action on the Consent Calendar. The Council first will take up the items for which public speaker requests have been submitted.

For Public Hearings involving zoning matters the appellant and applicant will be given 15 minutes each to present their position to the City Council, including rebuttal time. All other testimony shall follow the rules as set forth under Oral Communication. In order to speak, individuals must visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Old Business items have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Public comment shall follow the rules as set forth under Oral Communication.

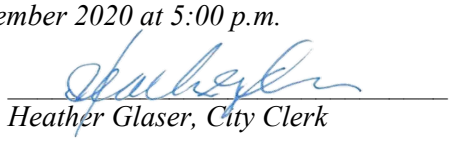
Items in New Business are items, which are appearing for the first time for formal action. Public comment shall follow the rules as set forth under Oral Communication.

City Council Items are items, which individual members of the City Council may bring up for action, to propose future agenda items or to suggest future staff assignments. No new items will be taken-up after 10:30 p.m. without a two-thirds vote of the City Council.

City Council meetings are aired live and replayed on City of Malibu Government Access Channel 3 and are available on demand on the City's website at www.malibucity.org/video. Copies of the staff reports or other written documentation relating to each item of business described above are on file in the office of the City Clerk and available upon request by emailing cityclerk@malibucity.org.

The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Environmental Sustainability Director Yolanda Bundy, (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II].

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. Regular and Adjourned Regular meeting agendas may be amended up to 72 hours in advance of the meeting. Dated this 20th day of November 2020 at 5:00 p.m.



Heather Glaser, City Clerk

City Council Meeting
11-23-20
Item 3.A.1.

Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: Heather Glaser, City Clerk

Approved by: Reva Feldman, City Manager

Date prepared: November 6, 2020 Meeting date: November 23, 2020

Subject: Second Reading and Adoption of Ordinance No. 472

RECOMMENDED ACTION: Conduct second reading, unless waived, and adopt Ordinance No. 472 amending the Local Coastal Program (Local Coastal Program Amendment No. 19-003) and Title 17 (Zoning) of the Malibu Municipal Code (Zoning Text Amendment No. 19-005) regulating the rental of residential units for 30 days or less (Short-term Rentals) including, but not limited to, requiring the presence of an onsite host during short-term rentals and other restrictions, and clarifying permitted uses related to short-term rental citywide, amending Chapter 15.44 pertaining to operating permits for onsite wastewater treatment systems and finding the action exempt from the California Environmental Quality Act.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

WORK PLAN: This item was included as item 4d in the Adopted Work Plan for Fiscal Year 2020-2021.

DISCUSSION: On November 5, 2020, the Council introduced on first reading Ordinance No. 472.

ATTACHMENT: Ordinance No. 472

ORDINANCE NO. 472

AN ORDINANCE OF THE CITY OF MALIBU AMENDING THE LOCAL COASTAL PROGRAM (LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003) AND TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE (ZONING TEXT AMENDMENT NO. 19-005) REGULATING THE RENTAL OF RESIDENTIAL UNITS FOR 30 DAYS OR LESS (SHORT-TERM RENTALS) INCLUDING, BUT NOT LIMITED TO, REQUIRING THE PRESENCE OF AN ONSITE HOST DURING SHORT-TERM RENTALS AND OTHER RESTRICTIONS, AND CLARIFYING PERMITTED USES RELATED TO SHORT-TERM RENTAL CITYWIDE, AMENDING CHAPTER 15.44 PERTAINING TO OPERATING PERMITS FOR ONSITE WASTEWATER TREATMENT SYSTEMS AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby ordain 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 platforms that consolidate and facilitate the short-term rental of property, the City has seen increased violations of its prohibition against illegal hotel, motel, and bed and breakfast inn 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 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the

draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

J. The September 11, 2018 City Council Regular Meeting was cancelled.

K. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

L. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

M. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

N. On June 24, 2019, the City Council authorized the City Manager to execute the Professional Services Agreement with Raftelis Financial Consultants, Inc. for financial analysis services to examine the short- and long-term financial implications of a potential ban on short-term rentals.

O. On October 3, 2019, the City Council Administration and Finance Subcommittee, received a report the short and long-term financial implications of a potential ban on STRs and recommended that requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

P. On October 28, 2019, the City Council received financial analysis on the

implications and potential impacts of a ban on short-term rentals. Council also discussed the potential options and procedures for banning short-term rentals, whether an amendment to the Local Coastal Program (LCP) is necessary for a short-term rental ban, and approaches other coastal cities have taken to legislate short-term rentals and associated litigation in those cities. Council directed staff to initiate a ZTA and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals to include provisions similar to Santa Monica's home-sharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance (ZTA No. 17-002) to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

Q. On December 3, 2019, the City Council held a duly noticed public hearing on ZTA No. 17-002. The City Council did not move forward with ZTA No. 17-002 at that time but did adopt Resolution No. 19-53 initiating a new LCPA No. 19-003 and ZTA No. 19-005 to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica's ordinance requires the presence of an onsite host within the rented dwelling unit, known as a "home-share" or a "hosted" rental. The City Council's direction was to require a "host" to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The City Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included.

R. On March 5, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

S. Beginning in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings began to be held virtually in April. Legislative matters drawing extensive public interest were temporarily postponed. On June 8, 2020, the Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission for a virtual public hearing.

T. On June 22, 2020, in response to immediate resident concerns about neighborhood impacts from short-term rentals, the City Council directed staff to bring back the ordinance presented to the City Council on December 3, 2019 (ZTA No. 17-002) establishing provisions to regulate short-term rental property.

U. On July 16, 2020, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu.

V. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record pertaining to hosted short-term rental regulations. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City Council adopt ZTA No. 19-005, with modifications, including that short-term rental of guest houses not be allowed, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

W. On August 10, 2020, the City Council held a duly noticed public hearing on ZTA No. 17-002 (Ordinance No. 468), reviewed and considered the staff report, written reports, public testimony, and other information in the record. City Council continued Ordinance No. 468 to the September 14, 2020, Regular meeting in order to consider it concurrently with the hosted short-term rental amendments (LCPA No. 19-003 and ZTA No. 19-005) and with a revised version of Ordinance No. 468. Council directed staff to modify Ordinance No. 468 in order to remove the primary resident requirement and certain other requirements to focus on providing enforcement tools against nuisance properties while LCPA No. 19-003 is being processed.

On September 14, 2020, the City Council held a duly noticed public hearing on the hosted short-term rental amendments (LCPA No. 19-003 and ZTA No. 19-005), reviewed and considered the staff report, the recommendation of the Planning Commission, written reports, public testimony, and other information in the record. Council continued to a date uncertain the public hearing and directed staff to bring back the Hosted Amendments (Ordinance No. 472 and Resolution No. 20-51) amended to: a) allow guest houses to be used for short-term rentals but require that a short-term rental permit designate only one specific unit on the single-family residential property to be listed, b) require the property owner to be onsite during short-term rental except that a designated operator, other than the owner, is allowed to host short-term rentals for up to two months cumulatively per calendar year with two-week notice to the City modifying the short-term rental permit, c) require designated operator to be present onsite between the hours of 9:00 p.m. and 6:00 a.m. during hosted short-term rentals, d) allow one unit of a duplex to be rented short-term if the owner lives onsite in the other, and e) allow up to 40%, up to two units maximum (whichever is fewer), of multifamily properties to be rented short-term if the other onsite units are rented long-term.

X. On September 14, 2020, the City Council also approved on first reading Ordinance No. 468 (the Enforcement Ordinance) and adopted it on September 29, 2020.

Y. On October 1, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

Z. On October 26, 2020, the City Council Regular meeting was adjourned to November 5, 2020.

AA. On November 5, 2020, the City Council held a duly noticed public hearing on the Hosted Amendments (LCPA No. 19-003 and ZTA No. 19-005) consisting of Ordinance No. 472 and Resolution No. 20-51, reviewed and considered the staff report, written reports, public testimony, and other information in the entire record of the City's consideration of short-term rental regulations.

SECTION 2. Local Coastal Program Amendments.

The LCP Local Implementation Plan (LIP) is amended as follows:

A. LIP Section 2.1 is hereby amended by adding the following definitions, inserted in alphabetical order:

DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and
C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for

compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

B. LIP Section 3.3(Q)(2)(a) Planned Development (PD) Zone is amended to add subsection (v) to section (a):

a. Lot Nos. 1—5

i. One single-family residence per lot.
ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
iii. Domestic animals, kept as pets.
iv. Landscaping.
v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

C. LIP Section 13.31 is added to LIP Chapter 13 (Coastal Development Permits) to read as follows:

13.31 Short-term Rental of Residential Property

A. No coastal development permit is required nor is the City required to maintain a record of coastal development permit exemption pursuant to LIP Section 13.4.10 for short-term rental of residential property as defined in Section 2.1 of this LIP provided that such use meets all of the following criteria:

1. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.
2. The short-term rental use is conducted in a dwelling unit that was lawfully established as described in LIP Section 13.3(F).
3. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

D. LIP Table B – Permitted Uses (Key to Table) is amended to read as follows:

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	**Permitted use**
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**
CUP	**Requires the approval of a Conditional Use Permit**
A	**Permitted only as an accessory use to an otherwise permitted use**
LFDC	**Requires the approval of a Large Family Day Care permit**
WTF	**Requires the approval of a Wireless Telecommunications Facility**

STR	**Use requires valid short-term rental permit approved by the City**
·	**Not permitted (Prohibited)**

E. LIP Table B – Permitted Uses is amended by inserting the following new use category to the end of the Residential section of the table after the "Home Occupation" category and adding a new footnote 21:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Short-term rental	STR[21]	STR[21]	STR[21]	STR[21]	STR[21]	·	·	·	·	·	·	·	·	·	·	·

21. Single-family residence properties are limited to hosted short-term rental permits only; one dwelling unit in a duplex may be rented unhosted if the owner or designated operator lives onsite in the other dwelling unit during the rental period; and for multifamily properties, a maximum of two dwelling units per parcel, or 40%, whichever is less, may be devoted to short-term rental use.

SECTION 3. LCP Amendment Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed LCPA No. 19-003 meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act as follows:

A. The amendment maintains standards to require that uses and development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will assure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

B. The amendment will be consistent with the following policies:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

No conversion or removal of lower cost opportunities for visitor-serving accommodations results from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which can be more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to be used for short-term rentals, which is currently prohibited.

2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost

opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

SECTION 4. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is amended as follows:

A. MMC Section 17.02.060 (Definitions) is hereby amended to add the following definitions, inserted in alphabetical order:

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Designated operator" means any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Guest House" means detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing

no kitchen facilities and not rented or otherwise used as a separate dwelling. Guest houses may be used for short-term rentals pursuant to a valid short-term rental permit issued by the City.

"Hosted short-term rental" means a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with Section 17.55.040.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

"Lives onsite" means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit. This definition is applicable to Chapter 17.55 only.

"Owner" means any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner. This definition is applicable to Chapter 17.55 only.

"Primary Residence" means the usual place of return for housing of an owner as documented to the satisfaction of the City Manager by an active voter registration, a valid driver's license or other government issued identification card with the address of the property. A person can only have one primary residence. This definition is applicable to Chapter 17.55 only.

"Short-term rental" of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

B. MMC Section 17.08.020 (Permitted Uses, Rural Residential) is amended to add subsection L:

L. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

C. MMC Section 17.10.020 (Permitted Uses, Single Family) is amended to add subsection I:

I. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

D. MMC Section 17.12.020 (Permitted Uses, Multiple Family) is amended to add subsection J:

J. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

E. MMC Section 17.14.020 (Permitted Uses, Multifamily Beachfront) is amended to add subsection I:

I. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

F. MMC Section 17.16.020 (Permitted Uses, Mobile Home) is amended to add subsection C:

C. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

G. MMC Chapter 17.55 (Short-term Rental of Property) is hereby amended to read as follows:

Section 17.55.010 Short-Term Rental of Property

A. Hosted short-term rental of single-family residential property, and the short-term rental of up to two dwelling units on a multifamily housing parcel, is allowed as specified in Section 17.55.040 if conducted in compliance with this Chapter 17.55 and the owner complies with each of the following requirements:
    1. Obtains and maintains at all times a Short-Term Rental Permit issued pursuant to this Chapter.
    2. Operates the short-term rental activity in compliance with all permit conditions for short-term rental as set forth in Section 17.55.020 and any regulations promulgated pursuant to this Chapter.
    3. Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 3.24 of this Code.
    4. Takes responsibility for and actively prevents any nuisance activities that may take place as a result of short-term rental activities.
    5. Is available, or a designated operator is available, 24 hours a day, 7 days a week, at a phone number provided to both the City and any guest staying at the property to immediately answer a call from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property. No person may serve as a designated operator for more than one hosted short-term rental concurrently.
    6. Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
    7. Limits the occupancy of the short-term rental (including the host, guests, and any other natural persons) to two people more than twice the number of bedrooms listed on City or County records as determined by the Planning Director up to a maximum of 14 people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.

8. Maintains liability insurance to cover the short-term rental of property with minimum limits of not less than $500,000 or conducts each short-term rental transaction through a hosting platform that provides equal or greater coverage.
9. Complies with Section 17.55.080 governing advertisements of short-term rentals.
10. Provides all guests with the Short-term Rental Code of Conduct, which shall be developed by the City Manager, and posts the same on the inside of the main entrance door to the dwelling unit rented, or on the wall adjacent thereto.
11. Provides 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 her/his designee for purposes of inspection or audit in compliance with federal and state law.
12. Complies with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
13. Maintains a valid Onsite Wastewater Treatment System (OWTS) operating permit pursuant to Chapter 15.44 or has entered a compliance agreement with the City excusing such compliance and is in full compliance with the compliance agreement and not in default or breach.

Section 17.55.020 Short-Term Rental Permit Required

A. No person shall offer, facilitate an offer, or allow the short-term rental of property in any location not specifically identified and approved on a valid short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.

B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit. Each permit may include only one listing, and shall designate the dwelling unit, or portion thereof, that is to be rented.

C. Application Required. To obtain a short-term rental permit an owner shall submit an application on a form to be provided by the City and signed by the owner under penalty of perjury.

D. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:

1. Address of the proposed short-term rental
2. Type of dwelling unit
3. Contact information for the owner of the property
4. Contact information for the designated operator, if a designated operator will live onsite for the hosted short-term rental
5. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.010(A)(14) paired with

an attestation that the owner is in full compliance with the compliance agreement and not in default or breach

6. Attestation and agreement to comply with the requirements of this Chapter
7. Proof that the owner is in compliance with Chapter 3.24 of this code
8. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property
9. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that owner has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the owner maintains a short-term rental permit for the property.
10. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy
11. Attestation of compliance with the required insurance coverage
12. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis
13. The type of short-term rental permit sought: hosted or multifamily
14. If seeking a hosted short-term rental permit, proof of primary residency and attestation that the location is the owner's primary residence, meaning that the owner lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the owner's primary residence for the duration of the permit shall suffice
15. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire parcel, and an attestation that all dwelling units (except for two) are rented on a long term-basis per Section 17.55.040(B). The permit holder shall maintain copies of the leases for all tenants documenting compliance at all times with Section 17.55.040(B) for a period of three years following the expiration of the short-term rental permit.

E. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.

F. Notice of Approval. Upon approval, the Planning Director shall provide, at the owner's expense, the contact information for the owner or designated operator identified in 17.55.010(A)(5) to all dwelling units within 500 feet of the short-term rental unit's parcel boundary.

G. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

H. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes, or immediately for any change in the owner or designated operator's contact information. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection (D) of this Section shall constitute a material change. A permittee may not cure a violation of this Chapter by seeking to amend a short-term rental permit after a violation occurs; short-term rental of a property may only be conducted as specifically authorized by an active short-term rental permit.

I. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.

J. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.

K. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

L. Possession of a STR permit does not excuse any other permitting requirements of this code including but not limited to TOT and special event permit requirements.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:

1. The owner has not paid all TOT due or is not in compliance with Chapter 3.24 of this code.

2. The property has outstanding code enforcement violations.

3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.

4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.

5. The owner has failed to amend an application as required by Section 17.55.020(H).

6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter.

7. The property has received two or more citations for violation of the City's noise ordinance within a period of 12 consecutive months.
8. Failure to comply with Section 17.55.010(A)(13)
9. A holder of a Hosted Short-term Rental Permit receives three or more citations for violation of any combination of the following requirements within a period of 12 consecutive months, or a holder of a Multifamily Short-term Rental Permit receives two or more citations for violation of any combination of the following requirements within a period of 12 consecutive months:
    i. The requirements of Sections 17.55.010(A)(4), (7), (10), (11), 17.55.040(A), and Section 17.55.080.

17.55.040 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Hosted Short-term Rental Permit. A primary resident owner may obtain this type of permit which allows hosted short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. The owner must live onsite during any period of rental, and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner must be located onsite, and present immediately upon request, during the hours of 9 p.m. to 6 a.m. during any period that the unit is rented. A designated operator may fulfill the owner obligations listed in the prior two sentences for up to 60 days cumulatively during a calendar year so long as the owner provides the City written notice and contact information for the designated operator, two weeks in advance of the rental date, in a form acceptable to the City. Multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that a primary resident owner of a condominium unit may obtain this type of permit for the unit where he or she has established his or her primary residence.

B. Multifamily Short-term Rental Permit. Owners of entire parcels that have multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two units, or 40% of the units on the parcel (whichever is less), so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term. The owner of both units of a duplex may also

obtain this type of permit to rent one unit if the owner lives onsite during any period of rental in the other unit. The owner of the duplex must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner the duplex must be located onsite, and present immediately upon request, during the hours of 9 p.m. to 6 a.m. during any period that the unit is rented. A designated operator may fulfill the owner obligations listed in the prior three sentences for up to 60 days cumulatively during a calendar year so long as the owner provides the City written notice and contact information for the designated operator, two weeks in advance of the rental date, in a form acceptable to the City

17.55.050 Renewal of Short-term Rental Permit

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.

B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.

C. No permit shall be renewed unless all city fees and taxes owed by the owner are paid in full, including the renewal fee.

17.55.060 Effect of Denial or Revocation of Short-term Rental Permit

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that owner and location for a 12 month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the owner knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(9), or (3) two or more citations for violation of the City's noise ordinance in a period of 12 consecutive months, a new application shall not be approved for a period of at least 12 months from the date of the last violation or short-term rental of the property, whichever is later.

B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of 12 months from the date of revocation.

C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other penalty) result in the property and owner being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for

each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.

D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.070 Appeals

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.

B. The completed appeal form must be delivered to the City Clerk within 30 calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.

C. Failure to deliver the completed appeal form as required by section (B) above will result in the denial or revocation being deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.

E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 Advertisement and Facilitation of Short-term Rentals

A. The owner shall include and prominently post the following information in any advertisement for short-term rental:

    1. The short-term rental permit number issued by the City;

    2. That the owner lives onsite and the owner or designated operator will live onsite throughout the visitor's stay unless the advertisement is for a permitted multifamily short-term rental;

    3. The permitted occupancy of the short-term rental as specified in the short-term rental permit application; and

    4. Any other information required by regulations promulgated pursuant to this Chapter.

B. No advertisements regarding the availability of a dwelling unit for short-term rental shall be posted in or on any exterior area of the dwelling unit, any exterior area of any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.

C. The address of the property shall be prominently displayed.

D. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental.

E. Any offer or advertisement for the short-term rental of property in the City that does not contain a valid short-term rental permit number, or which the City identifies as illegal to the person or entity advertising or offering the rental, shall be immediately removed from any location it is posted, whether online or otherwise.

17.55.090 Hosting Platform Responsibilities

A. Hosting platforms shall be responsible for collecting all applicable TOT and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the TOT the Hosting platform failed to collect and/or remit to the City.

B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.

C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.

D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.

E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C), and (D) above, shall be presumed to be in compliance with this Chapter. If technical issues pose a substantial obstacle to compliance with this Section, a hosting platform may also satisfy these obligations pursuant to a compliance agreement with the City that prevents booking transactions for unpermitted short-term rentals, collects all transient occupancy tax due, and complies with the disclosure requirements of this Section..

F. The provisions of this Section 17.55.090 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.100 Regulations

The City Manager or designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.110 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 Section 17.55.020(A) by an owner shall be subject to a fine of $1000 per day or violation, or twice the short-term rental's advertised daily rental rate per day or violation, whichever is higher, and for all other violations an owner shall be subject to a fine of $500 per day or violation, or the short-term rental's advertised daily rental rate per day or violation, whichever is higher.

B. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code or local coastal program committed by guests at the property.

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.

H. MMC Title 17 – Appendix 1 (Permitted Uses Table) – Key to Table is hereby amended to read as follows:

KEY TO TABLE (In addition to a coastal development permit where applicable, MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	Permitted use
MCUP	Requires the approval of a minor Conditional Use Permit by the Director
CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility
STR	Use requires valid short-term rental permit approved by the City
•	Not permitted (Prohibited)

I. MMC Title 17 – Appendix 1 – (Permitted Uses Table) is amended by inserting the following new use category after the "Home Occupations" use category in the table and a new footnote 32:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Short-term rental	STR[32]	STR[32]	STR[32]	STR[32]	STR[32]	·	·	·	·	·	·	·	·	·	·	·

32. Single-family residence properties are limited to hosted short-term rental permits only; one dwelling unit in a duplex may be rented unhosted if the owner or designated operator lives onsite in the other dwelling unit during

the rental period; and for multifamily properties, a maximum of two dwelling units per parcel, or 40%, whichever is less, may be devoted to short-term rental use.

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SECTION 6. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be made prior to or concurrent with the application for a short-term rental permit. An operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 7. Zoning Text Amendment Findings.

The City Council hereby finds that ZTA No. 19-005 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], protect rural residential character [General Plan LU Policy 1.1.4], protect and preserve the unique character of the City's distinct neighborhoods, and conserve affordable housing in the Coastal Zone [General Plan Housing Policy 1.4].

ZTA No. 19-005 will support these policies by introducing regulations to reduce the impact of short-term rentals on neighbors and the community.

SECTION 8. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters. Further, the Ordinance is exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines which states that permitting and licensing of existing private structures involving negligible or no expansion of existing or former use in that the proposed short-term rental permitting program will establish rules and regulations that do not expand existing residential uses. Additionally, the Ordinance is exempt pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) in that the regulatory program established will facilitate enforcement actions, such as permit revocation, for nuisance short-term rental properties. Finally, in accordance with the CEQA, Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This Ordinance is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect.

SECTION 9. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 10. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit the LCP amendments contained in Section 2 of this Ordinance to the California Coastal Commission per Title 14, California Code of Regulations Section 13554.5(a).

SECTION 11. Effectiveness.

The LCP amendment and corollary ZTA approved in this Ordinance shall become effective only upon certification by the California Coastal Commission of this amendment to the LCP.

SECTION 12. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2020.

_____
MIKKE PIERSON, Mayor

ATTEST:

_____
HEATHER GLASER, City Clerk

Date: _____

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

_____
CHRISTI HOGIN, City Attorney

Kelsey Pettijohn

Subject: City Council meeting 11/23/2020 Ordinance imposing motels in Malibu, agenda item 3A1

FILED
City of Malibu
Office of the City Clerk
Meeting Date 11/23/20
Agenda Item # 3A1

RECEIVED
Nov 17 2020
CITY CLERKS OFFICE
CITY OF MALIBU

From: Bill Sampson [redacted]
Sent: Tuesday, November 17, 2020 1:12 PM
To: City Council <citycouncil@malibucity.org>
Cc: Steve Uhring [redacted] Bruce Silverstein [redacted]; Sam Hall Kaplan [redacted]
Subject: City Council meeting 11/23/2020 Ordinance imposing motels in Malibu, agenda item 3A1

Our comments are to portions of the ordinance submission by paragraph or section number except where indicated:

Section 1. Recitals

A. Your recitation that the city allows short term rentals already is a lie. Why base an ordinance on this lie? Current zoning does NOT permit such use and never has since the day the city came into existence.

D. Your recitation that owners have resisted enforcement is also a lie. The City has NEVER attempted any enforcement of a violation of Title 17 against any owner of a single family residence for using that residence as a motel, or as you euphemistically characterize it, as a short term rental. Why lie?

Left out of the recitals were the requests of many of us, antedating the recital of council meetings starting in recital E, asking staff and the council to simply enforce existing law. Staff and the council have failed and refused to act lawfully but instead ignored the problem that has now metastasized throughout the city. As a body you are bringing us cancer with this.

Section 2. LCP/LIP

Section 13.31 (3) within the above Section 2 states there will be no impact on public parking. It is apparent that the city council was not present in 2020. For example, on our street, Cottontail Lane, the street always has beach visitors parked on it and in fact overflows. One of the motels you seek to authorize advertises that it has 5 bedrooms, meaning that twelve persons may stay in it. There are two on site parking spaces. The other ten vehicles, and what we get as invaders here consists of platoons of people arriving 1 to a car, are going to park where? On the street. That is ten fewer parking spaces for visitors just from one motel, er, short term rental.

Section 4, Zoning Text Amendment

Section 17.55.020 D9 fails to require the motel operator to notify everyone who has CC&Rs that might prohibit such use. It requires notice only to a vague and ambiguous Homeowners' Association. Many CC&Rs have no such association and you are

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 11/23/20 Agenda File

discriminating unlawfully and intentionally interfering with the property rights of such persons. This matter has repeatedly been brought to the attention of the council which has chosen to ignore such property rights, thus, constituting an impermissible taking.

Section 17.55 F. The required notice should be sent prior to approval and further should extend to a distance of 2000 feet. At least the council should let the citizens know in advance that they are being abused by motel operators.

Section 7. Zoning Text Amendment Findings

Again, to your discredit, you countenance a lie. You find that a proliferation of motels in literally any single family (that is, most) residential neighborhood in Malibu is consistent with maintaining Malibu's rural residential character. Instead of reducing the impact, which has NEVER been permitted despite the laziness and dishonesty of staff and council, you are now choosing to permit motels to have an impact literally everywhere within the city limits that is currently a residential rural neighborhood. You are engaging it classic doublespeak. You recite that this loophole riddled ordinance does one thing while it does the opposite. WHY LIE? AGAIN?

Four of the five of you, if you pass this ordinance as you are threating your constituents with doing, will have ignored your oaths and participated in a public lie. If you choose this path, for shame. Two of you were elected promising to do otherwise. Or have you forgotten the "kickoff" party on Pt. Dume four years ago?

Bill and Rosemary Sampson
[redacted]

STO

Rochelle [redacted]

Sat 11/21/2020 9:28 AM

To: City Council <citycouncil@malibucity.org>; mary leon [redacted]

Good morning. My vote is to allow property owners to be able to whatever they wish as long as it's legal. It's totally uncool for lawmakers to restrict use of my property when I pay over $28,000 in property taxes a year. And I own the property. As long as I'm not disrupting the neighbors, which we are not, I should be allowed to do whatever I wish on my property. This isn't Russia where the communists can force their rule on the people. It's not Veniswela where the socialist can force their rule on the people. This is America!!! The home of the free. It is unconstitutional to take away my property rights as a property owner. My guests patronize the businesses of Malibu and spend a great deal of money here. It's unfair to the traveling public to not allow them to visit Malibu. All the hotels are expensive and most of the traveling public can't afford them. This allows people to visit our beautiful city and take home memories forever.

My vote is to stop this ridiculous display of power and give the rights back to the property owners. We should be allowed to do whatever we wish with our property as long as it's legal.

Thank you!!

Sent from my iPhone



FILED
City of Malibu
Office of the City Clerk
Meeting Date 11/23/20
Agenda Item # 3A1

CC: Council; CM; CA ; PL ; Ref. Binder; Original to 11/23/20 Agenda File

City of Malibu

MEMORANDUM

To: Mayor Pierson and the Honorable Members of the City Council, City Manager, City Attorney, Department Heads, City Employees, KBUU, Malibu Surfside News, and The Malibu Times

From: Heather Glaser, City Clerk

Date: November 24, 2020

Re: REVISED Actions from the November 23, 2020 Malibu City Council Regular meeting

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At the City Council Regular meeting on Monday, November 23, 2020, the Council took the actions listed below with follow-up by various staff members shown in parentheses:

1) Directed staff to draft an amendment to the agreement with Leech, Tishman, Fuscaldo & Lampl, Inc. to move forward with a petition for rule making with the Federal Aviation Administration regarding increased airplane noise due to low flying planes in the City (City Attorney)

2) Directed staff to: 1) work with the Los Angeles County Fire Department to identify potential funding sources and locations for the installation of dip tanks in and around the City; and 2) bring an item back to Council for consideration. (Public Safety)

3) Adopted Ordinance No. 472 amending the Local Coastal Program (Local Coastal Program Amendment No. 19-003) and Title 17 (Zoning) of the Malibu Municipal Code (Zoning Text Amendment No. 19-005) regulating the rental of residential units for 30 days or less (Short-term Rentals) including, but not limited to, requiring the presence of an onsite host during short-term rentals and other restrictions, and clarifying permitted uses related to short-term rental citywide, amending Chapter 15.44 pertaining to operating permits for onsite wastewater treatment systems and finding the action exempt from the California Environmental Quality Act (City Clerk)

4) Allowed and approved warrant demand 61712-61807 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 671 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of $2,291,699.06. City of Malibu payroll check number 5136 and ACH deposits were issued in the amount of $248,870.15 (Administration)

5) Approved the minutes for the October 12, 2020 Malibu City Council Special meeting, October 12, 2020 Malibu City Council Regular meeting, and October 28, 2020 Malibu City Council Special meeting (City Clerk)

6) Authorized the Mayor to execute Amendment No. 1 to the Professional Services Agreement with Digital Map Products for geographic information system (GIS) software subscription services (Administration)

7) 1) Authorized the Mayor to execute the Measure R Funding Agreement Amendments for the Civic Center Way Improvements and for the Pacific Coast Highway Median Improvements projects; and 2) authorized the Mayor to execute the Measure M Funding Agreement for the Westward Beach Road Improvements project. (Public Works)

8) Authorized the Mayor to execute a Professional Services Agreement with 30 Three Sixty Public Finance, Inc. to provide consulting services for the formation of the proposed Cliffside Drive Utilities Undergrounding District (Public Works)

9) 1) Adopted Resolution No. 20-62 accepting a utility easement adjacent to 25321 Malibu Road; and 2) directed staff to record a certified copy of the resolution and easement in the Office of the County Recorder. (Public Works)

10) Approved the request from Malibu Little League to waive facility use fees for the fall baseball program at the Malibu Bluffs Park (Community Services)

11) Adopted Resolution No. 20-52A initiating a zoning text amendment to Chapter 17.60.020 of the Malibu Municipal Code to add one year to the deadlines in Subsection (C) to initiate the application process and obtain building permits to rebuild a legal nonconforming structure that was damaged or destroyed pursuant to a planning verification (Planning)

12) Authorized the Mayor to execute Amendment No. 5 to the Professional Services Agreement with Turbo Data Systems for Parking Citation Processing Services (Administration)

13) Authorized the Mayor to execute Amendment No. 1 to the Professional Services Agreement with SDI Presence LLC for information technology administrative services (Administration)

14) Continued to a date uncertain Appeal No. 19-010 - Appeal of Planning Commission Resolution No. 19-25 (20238 Piedra Chica Road; Appellants: Colin Drummond; Applicant: Sakahara Allen Architects; Property Owners: Reza Nebavi and Maryam Akbar (Planning)

15) 1) Introduced on first reading Ordinance No. 476 determining the proposed code amendment is categorically exempt from the California Environmental Quality Act (CEQA) and approving Zoning Text Amendment No. 20-002 to amend Malibu Municipal Code Section 17.060.020(C) to extend the deadlines by one year to initiate the planning application process, obtain building permits, and the total time allotted for an extension to rebuild a legal nonconforming structure that was damaged or destroyed in the Woolsey Fire; and 2) directed staff to schedule a second reading and adoption of Ordinance No. 476 for the December 14, 2020 Regular City Council meeting. (Planning)

16) 1) Conducted the Public Hearing; 2) adopted Resolution No. 20-59 amending the City's Schedule of Parking Citation Penalties, repealing Resolution No. 15-09, and finding the action to be exempt from the California Environmental Quality Act; and 3) directed the Public Safety Commission to review the Schedule of Parking Citation Penalties annually. (Public Safety)

17) Directed staff to: 1) incorporate the recommendations of the Planning Commission and John Mazza into Local Coastal Program Amendment No. 17-005 and Zoning Text Amendment No. 17-005 allowing stand-alone surface parking lots in commercial zones as a conditionally permitted commercial use; and 2) bring the updated ordinance back in the first quarter of 2021. (Planning)

18) Approved the request from the Malibu Film Society to waive event fees and provide City sponsorship for a two-night drive-in movie event at the Ioki Property (Community Services)

19) 1) Allowed the City Hall parking lot to be used as a drive-through COVID-19 vaccination and/or testing site; and 2) authorized the Mayor to execute any agreements necessary to facilitate the use of the City Hall parking lot as a COVID-19 vaccination and/or testing site. (City Manager)

20) Adjourned in memory of Kim Tipper and Raymond Voge (City Clerk)

ORDINANCE NO. 472

AN ORDINANCE OF THE CITY OF MALIBU AMENDING THE LOCAL COASTAL PROGRAM (LOCAL COASTAL PROGRAM AMENDMENT NO. 19-003) AND TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE (ZONING TEXT AMENDMENT NO. 19-005) REGULATING THE RENTAL OF RESIDENTIAL UNITS FOR 30 DAYS OR LESS (SHORT-TERM RENTALS) INCLUDING, BUT NOT LIMITED TO, REQUIRING THE PRESENCE OF AN ONSITE HOST DURING SHORT-TERM RENTALS AND OTHER RESTRICTIONS, AND CLARIFYING PERMITTED USES RELATED TO SHORT-TERM RENTAL CITYWIDE, AMENDING CHAPTER 15.44 PERTAINING TO OPERATING PERMITS FOR ONSITE WASTEWATER TREATMENT SYSTEMS AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby ordain 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 platforms that consolidate and facilitate the short-term rental of property, the City has seen increased violations of its prohibition against illegal hotel, motel, and bed and breakfast inn 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 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 (Zoning Text Amendment (ZTA) No. 17-002) and provided comments to staff.

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the

draft ordinance.

H. On May 7, 2018, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which the Planning Commission reviewed and considered the agenda report, written reports, public testimony, and other information on the record and adopted Planning Commission Resolution No. 18-26 stating that the short-term rental of property is currently prohibited in all residential zones in the City and recommending that the City Council adopt an ordinance memorializing this prohibition.

I. On July 9, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to revise the ordinance and return with additional information at the September 11, 2018 City Council Regular meeting.

J. The September 11, 2018 City Council Regular Meeting was cancelled.

K. On September 26, 2018, the City Council held a duly noticed public hearing on ZTA No. 17-002, reviewed and considered the agenda report, written reports, public testimony, and other information in the record. The City Council directed staff to investigate potential options and procedures for banning short-term rentals in the City, the implications and potential impacts of a ban, including financial analysis, approaches to using the Local Coastal Program Amendment process and the approaches of other coastal cities to dealing with short-term rentals and the current state of litigation over those issues.

L. On November 8, 2018, the Woolsey Fire broke out in the Chatsworth area north of the 101 Freeway and reached Malibu on November 9, 2018. On November 9, 2018, the Director of Emergency Services proclaimed the existence of a local emergency. The Woolsey Fire was largest fire Los Angeles County history and the most disastrous event ever in Malibu. In one week, the fire burned approximately 90,000 acres throughout the Santa Monica Mountains area and destroyed 488 single-family homes in Malibu.

M. On November 16, 2018, the Director of Emergency Services again proclaimed the existence of a local emergency as a result of conditions of extreme peril to the safety of persons and property caused by the Woolsey Fire. The City Council extended the existence of a local emergency until April 22, 2019 through Resolution Nos. 18-64, 18-68, 18-69, 19-02, and 19-13.

N. On June 24, 2019, the City Council authorized the City Manager to execute the Professional Services Agreement with Raftelis Financial Consultants, Inc. for financial analysis services to examine the short- and long-term financial implications of a potential ban on short-term rentals.

O. On October 3, 2019, the City Council Administration and Finance Subcommittee, received a report the short and long-term financial implications of a potential ban on STRs and recommended that requested that the financial analysis presentation to Council include potential expenditure reductions that could offset loss of revenue from a partial or a full ban on short-term rentals as well as a consideration of the financial impact of a 25 percent ban.

P. On October 28, 2019, the City Council received financial analysis on the

implications and potential impacts of a ban on short-term rentals. Council also discussed the potential options and procedures for banning short-term rentals, whether an amendment to the Local Coastal Program (LCP) is necessary for a short-term rental ban, and approaches other coastal cities have taken to legislate short-term rentals and associated litigation in those cities. Council directed staff to initiate a ZTA and Local Coastal Program Amendment (LCPA) regarding regulation of home-sharing and short-term rentals to include provisions similar to Santa Monica's home-sharing ordinance for single-family homes, bypassing the Zoning Ordinance Revisions and Code Enforcement Subcommittee and taking the ZTA and LCPA directly to the Planning Commission; and to bring back an updated version of the September 26, 2018, draft ordinance (ZTA No. 17-002) to the City Council for adoption that could be implemented without an LCPA, with the understanding it would be superseded when the new ZTA and LCPA were approved.

Q. On December 3, 2019, the City Council held a duly noticed public hearing on ZTA No. 17-002. The City Council did not move forward with ZTA No. 17-002 at that time but did adopt Resolution No. 19-53 initiating a new LCPA No. 19-003 and ZTA No. 19-005 to consider a regulatory system similar to that adopted by the City of Santa Monica. Santa Monica's ordinance requires the presence of an onsite host within the rented dwelling unit, known as a "home-share" or a "hosted" rental. The City Council's direction was to require a "host" to live onsite at the property during the rental, but not require the person to be within the dwelling unit. The City Council also directed that the multifamily regulation system proposed in ZTA No. 17-002 should be included.

R. On March 5, 2020, a Notice of Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

S. Beginning in March 2020, the COVID-19 pandemic began to affect City operations, and public meetings began to be held virtually in April. Legislative matters drawing extensive public interest were temporarily postponed. On June 8, 2020, the Council directed staff to move the Santa Monica-style LCPA/ZTA forward to the Planning Commission for a virtual public hearing.

T. On June 22, 2020, in response to immediate resident concerns about neighborhood impacts from short-term rentals, the City Council directed staff to bring back the ordinance presented to the City Council on December 3, 2019 (ZTA No. 17-002) establishing provisions to regulate short-term rental property.

U. On July 16, 2020, a Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu.

V. On July 29, 2020 the Planning Commission held a duly noticed public hearing on LCPA No. 19-003 and ZTA No. 19-005, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record pertaining to hosted short-term rental regulations. At the conclusion of its deliberations, the Planning Commission voted to recommend that the City Council adopt ZTA No. 19-005, with modifications, including that short-term rental of guest houses not be allowed, and made two additional recommendations, first that the Council not adopt LCPA No. 19-003 and second, that Council revise City Council Policy No. 43 pertaining to short-term rental complaints.

W. On August 10, 2020, the City Council held a duly noticed public hearing on ZTA No. 17-002 (Ordinance No. 468), reviewed and considered the staff report, written reports, public testimony, and other information in the record. City Council continued Ordinance No. 468 to the September 14, 2020, Regular meeting in order to consider it concurrently with the hosted short-term rental amendments (LCPA No. 19-003 and ZTA No. 19-005) and with a revised version of Ordinance No. 468. Council directed staff to modify Ordinance No. 468 in order to remove the primary resident requirement and certain other requirements to focus on providing enforcement tools against nuisance properties while LCPA No. 19-003 is being processed.

On September 14, 2020, the City Council held a duly noticed public hearing on the hosted short-term rental amendments (LCPA No. 19-003 and ZTA No. 19-005), reviewed and considered the staff report, the recommendation of the Planning Commission, written reports, public testimony, and other information in the record. Council continued to a date uncertain the public hearing and directed staff to bring back the Hosted Amendments (Ordinance No. 472 and Resolution No. 20-51) amended to: a) allow guest houses to be used for short-term rentals but require that a short-term rental permit designate only one specific unit on the single-family residential property to be listed, b) require the property owner to be onsite during short-term rental except that a designated operator, other than the owner, is allowed to host short-term rentals for up to two months cumulatively per calendar year with two-week notice to the City modifying the short-term rental permit, c) require designated operator to be present onsite between the hours of 9:00 p.m. and 6:00 a.m. during hosted short-term rentals, d) allow one unit of a duplex to be rented short-term if the owner lives onsite in the other, and e) allow up to 40%, up to two units maximum (whichever is fewer), of multifamily properties to be rented short-term if the other onsite units are rented long-term.

X. On September 14, 2020, the City Council also approved on first reading Ordinance No. 468 (the Enforcement Ordinance) and adopted it on September 29, 2020.

Y. On October 1, 2020, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and sent to interested parties.

Z. On October 26, 2020, the City Council Regular meeting was adjourned to November 5, 2020.

AA. On November 5, 2020, the City Council held a duly noticed public hearing on the Hosted Amendments (LCPA No. 19-003 and ZTA No. 19-005) consisting of Ordinance No. 472 and Resolution No. 20-51, reviewed and considered the staff report, written reports, public testimony, and other information in the entire record of the City's consideration of short-term rental regulations.

SECTION 2. Local Coastal Program Amendments.

The LCP Local Implementation Plan (LIP) is amended as follows:

A. LIP Section 2.1 is hereby amended by adding the following definitions, inserted in alphabetical order:

DESIGNATED OPERATOR – pertaining to the short-term rental of residential property, any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

DWELLING UNIT - one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. 'Dwelling unit' also includes:

A. One or more habitable rooms within a mobile home which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
B. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a hotel, motel or bed and breakfast inn; and
C. Each space or pad designed and allocated to accommodate a mobile home within a mobile home park.

GUEST – pertaining to the short-term rental of residential property, a natural person who rents a short-term rental or is an invitee of such person.

GUEST HOUSE - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area. Guest houses may be used as short-term rentals pursuant to a valid short-term rental permit issued by the City.

HOSTED SHORT-TERM RENTAL – a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with the requirements of a hosted short-term rental permit issued by the City.

LIVES ONSITE – pertaining to short-term rental of residential property, means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit.

OWNER – pertaining to the short-term rental of residential property, a person who alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner.

SHORT-TERM RENTAL – of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for

compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

B. LIP Section 3.3(Q)(2)(a) Planned Development (PD) Zone is amended to add subsection (v) to section (a):

a. Lot Nos. 1—5

i. One single-family residence per lot.
ii. Accessory uses (one second unit or guest house per lot, garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
iii. Domestic animals, kept as pets.
iv. Landscaping.
v. Hosted short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

C. LIP Section 13.31 is added to LIP Chapter 13 (Coastal Development Permits) to read as follows:

13.31 Short-term Rental of Residential Property

A. No coastal development permit is required nor is the City required to maintain a record of coastal development permit exemption pursuant to LIP Section 13.4.10 for short-term rental of residential property as defined in Section 2.1 of this LIP provided that such use meets all of the following criteria:

1. The short-term rental use is conducted pursuant to a valid short-term rental permit issued by the City.
2. The short-term rental use is conducted in a dwelling unit that was lawfully established as described in LIP Section 13.3(F).
3. The short-term rental use will not result in reduction or elimination of public parking for access to the beach, public trails or parklands.

D. LIP Table B – Permitted Uses (Key to Table) is amended to read as follows:

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	**Permitted use**
MCUP	**Requires the approval of a minor Conditional Use Permit by the Director**
CUP	**Requires the approval of a Conditional Use Permit**
A	**Permitted only as an accessory use to an otherwise permitted use**
LFDC	**Requires the approval of a Large Family Day Care permit**
WTF	**Requires the approval of a Wireless Telecommunications Facility**

STR	**Use requires valid short-term rental permit approved by the City**
·	**Not permitted (Prohibited)**

E. LIP Table B – Permitted Uses is amended by inserting the following new use category to the end of the Residential section of the table after the "Home Occupation" category and adding a new footnote 21:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Short-term rental	STR[21]	STR[21]	STR[21]	STR[21]	STR[21]	·	·	·	·	·	·	·	·	·	·	·

21. Single-family residence properties are limited to hosted short-term rental permits only; one dwelling unit in a duplex may be rented unhosted if the owner or designated operator lives onsite in the other dwelling unit during the rental period; and for multifamily properties, a maximum of two dwelling units per parcel, or 40%, whichever is less, may be devoted to short-term rental use.

SECTION 3. LCP Amendment Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed LCPA No. 19-003 meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act as follows:

A. The amendment maintains standards to require that uses and development within the City's jurisdiction of the Coastal Zone advance the overarching goals of protecting coastal resources. In particular, the amendment will assure that visitor-serving accommodations are available within the City through short-term rental of residential property in a manner that protects residential neighborhoods and preserves the amount and variety of the City's existing housing stock.

B. The amendment will be consistent with the following policies:

2.34 Existing, lower cost visitor-serving and recreation facilities, including overnight accommodations, shall be protected to the maximum feasible extent. New lower cost visitor and recreation facilities, including overnight accommodations, shall be encouraged and provided, where designated on the LUP Map. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to minimize impacts to environmentally sensitive habitat areas and visual resources.

No conversion or removal of lower cost opportunities for visitor-serving accommodations results from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which can be more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to be used for short-term rentals, which is currently prohibited.

2.36 Coastal recreational and visitor serving uses and opportunities, especially lower cost

opportunities, shall be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.

No conversion or removal of lower cost opportunities for visitor-serving accommodations result from the amendment. The amendment ensures that a variety of visitor-serving accommodations is available in the City. The amendment allows for hosted short-term rentals which is often more economical than whole house rentals since the property owner or long-term tenant is also on the site. In addition, the amendments allow for a limited number of multifamily units to also be used for short-term rentals, which is currently prohibited.

SECTION 4. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is amended as follows:

A. MMC Section 17.02.060 (Definitions) is hereby amended to add the following definitions, inserted in alphabetical order:

"Bedroom" means any habitable space in a dwelling unit other than a kitchen or living room that is intended for or capable of being used for sleeping, is at least 70 square feet in area, is separated from other rooms by a door, and is accessible to a bathroom without crossing another bedroom.

"Booking transaction" means any reservation or payment service provided by a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who facilitates a short-term rental transaction between a prospective guest and an owner.

"Designated operator" means any natural person who is required by the owner of a short-term rental unit to: (1) resolve any nuisance or compliance issues with the dwelling unit, (2) produce requested records, (3) allow others including, but not limited, to code enforcement officers and law enforcement personnel, to enter the dwelling unit, and (4) live onsite at any dwelling unit offered for use as a hosted short-term rental for the duration of the rental.

"Dwelling unit" means one or more rooms in a building or portion thereof designed, intended to be used or used for occupancy by one family for living and sleeping quarters and containing only one kitchen. "Dwelling unit" also includes:

1. One or more habitable rooms within a mobilehome which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating and sanitation; and
2. Any room used for sleeping accommodations which contains a bar sink and/or gas, electrical or water outlets designed, used or intended to be used for cooking facilities except a guest room or guest suite in a motel, hotel or bed and breakfast inn.

"Guest" means a natural person who rents a short-term rental or is an invitee of such person. This definition is applicable to Chapter 17.55 only.

"Guest House" means detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing

no kitchen facilities and not rented or otherwise used as a separate dwelling. Guest houses may be used for short-term rentals pursuant to a valid short-term rental permit issued by the City.

"Hosted short-term rental" means a short-term rental for which the owner or designated operator lives onsite throughout the guests' stay in accordance with Section 17.55.040.

"Hosting platform" means a natural person, joint venture, joint stock company, partnership, association, club, company corporation, business trust, or organization of any kind who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

"Lives onsite" means maintains a physical presence on the property, including, but not limited to, sleeping overnight, preparing and eating meals, and being present on the property each day of the short-term rental as required by the hosted short-term rental permit. This definition is applicable to Chapter 17.55 only.

"Owner" means any person who, alone or with others, has legal or equitable title to a dwelling unit. A person whose interest in a dwelling unit is solely that of a tenant, subtenant, lessee, or sublessee under an oral or written rental housing agreement shall not be considered an owner. This definition is applicable to Chapter 17.55 only.

"Primary Residence" means the usual place of return for housing of an owner as documented to the satisfaction of the City Manager by an active voter registration, a valid driver's license or other government issued identification card with the address of the property. A person can only have one primary residence. This definition is applicable to Chapter 17.55 only.

"Short-term rental" of property means the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient.

B. MMC Section 17.08.020 (Permitted Uses, Rural Residential) is amended to add subsection L:

L. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

C. MMC Section 17.10.020 (Permitted Uses, Single Family) is amended to add subsection I:

I. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

D. MMC Section 17.12.020 (Permitted Uses, Multiple Family) is amended to add subsection J:

J. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

E. MMC Section 17.14.020 (Permitted Uses, Multifamily Beachfront) is amended to add subsection I:

I. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

F. MMC Section 17.16.020 (Permitted Uses, Mobile Home) is amended to add subsection C:

C. Short-term rental use only if pursuant to a valid short-term rental permit issued by the City.

G. MMC Chapter 17.55 (Short-term Rental of Property) is hereby amended to read as follows:

Section 17.55.010 Short-Term Rental of Property

A. Hosted short-term rental of single-family residential property, and the short-term rental of up to two dwelling units on a multifamily housing parcel, is allowed as specified in Section 17.55.040 if conducted in compliance with this Chapter 17.55 and the owner complies with each of the following requirements:
    1. Obtains and maintains at all times a Short-Term Rental Permit issued pursuant to this Chapter.
    2. Operates the short-term rental activity in compliance with all permit conditions for short-term rental as set forth in Section 17.55.020 and any regulations promulgated pursuant to this Chapter.
    3. Collects and remits Transient Occupancy Tax ("TOT"), in coordination with any hosting platform if utilized, to the City and complies with all City TOT requirements as set forth in Chapter 3.24 of this Code.
    4. Takes responsibility for and actively prevents any nuisance activities that may take place as a result of short-term rental activities.
    5. Is available, or a designated operator is available, 24 hours a day, 7 days a week, at a phone number provided to both the City and any guest staying at the property to immediately answer a call from the City, an agent authorized by the City to make such calls, or a guest when there is a guest renting the property. No person may serve as a designated operator for more than one hosted short-term rental concurrently.
    6. Ensures that basic health and safety features are provided, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
    7. Limits the occupancy of the short-term rental (including the host, guests, and any other natural persons) to two people more than twice the number of bedrooms listed on City or County records as determined by the Planning Director up to a maximum of 14 people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.

8. Maintains liability insurance to cover the short-term rental of property with minimum limits of not less than $500,000 or conducts each short-term rental transaction through a hosting platform that provides equal or greater coverage.
9. Complies with Section 17.55.080 governing advertisements of short-term rentals.
10. Provides all guests with the Short-term Rental Code of Conduct, which shall be developed by the City Manager, and posts the same on the inside of the main entrance door to the dwelling unit rented, or on the wall adjacent thereto.
11. Provides 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 her/his designee for purposes of inspection or audit in compliance with federal and state law.
12. Complies with all applicable laws, including the noise limitations set forth in Chapter 8.24 of this Code, and all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
13. Maintains a valid Onsite Wastewater Treatment System (OWTS) operating permit pursuant to Chapter 15.44 or has entered a compliance agreement with the City excusing such compliance and is in full compliance with the compliance agreement and not in default or breach.

Section 17.55.020 Short-Term Rental Permit Required

A. No person shall offer, facilitate an offer, or allow the short-term rental of property in any location not specifically identified and approved on a valid short-term rental permit or in a location not approved for use as a dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.

B. A separate short-term rental permit is required for every legal lot or condominium unit (if a condominium unit is to be rented). An individual may not possess more than one active short-term rental permit. Each permit may include only one listing, and shall designate the dwelling unit, or portion thereof, that is to be rented.

C. Application Required. To obtain a short-term rental permit an owner shall submit an application on a form to be provided by the City and signed by the owner under penalty of perjury.

D. Application Contents. In addition to any other information prescribed by the City Manager, an application for a short-term rental permit shall include the following information:

1. Address of the proposed short-term rental
2. Type of dwelling unit
3. Contact information for the owner of the property
4. Contact information for the designated operator, if a designated operator will live onsite for the hosted short-term rental
5. A copy of a valid OWTS operating permit for the property, or a copy of a City approved compliance agreement pursuant to Section 17.55.010(A)(14) paired with

an attestation that the owner is in full compliance with the compliance agreement and not in default or breach

6. Attestation and agreement to comply with the requirements of this Chapter
7. Proof that the owner is in compliance with Chapter 3.24 of this code
8. The Uniform Resource Locator (URL) (i.e., the website address) for any and all advertisements of the short-term rental of the property
9. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners association or similar association, and that owner has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the owner maintains a short-term rental permit for the property.
10. Attestation of the number of bedrooms in the proposed short-term rental and proposed maximum occupancy
11. Attestation of compliance with the required insurance coverage
12. The location of all dwelling units, or portions thereof, that will be rented on a short-term basis
13. The type of short-term rental permit sought: hosted or multifamily
14. If seeking a hosted short-term rental permit, proof of primary residency and attestation that the location is the owner's primary residence, meaning that the owner lives in a dwelling unit on the legal lot (or in the authorized condominium) as his or her primary residence for no less than 185 days of the previous calendar year; if the property was purchased less than 185 days from the end of the previous calendar year, an attestation that the unit is and will remain the owner's primary residence for the duration of the permit shall suffice
15. If seeking a multifamily short-term rental permit, contact information, including phone number, for all tenants, proof of ownership of the entire parcel, and an attestation that all dwelling units (except for two) are rented on a long term-basis per Section 17.55.040(B). The permit holder shall maintain copies of the leases for all tenants documenting compliance at all times with Section 17.55.040(B) for a period of three years following the expiration of the short-term rental permit.

E. Review and Approval. Short-term rental permits shall be subject to the approval of the City Manager or her/his designee.

F. Notice of Approval. Upon approval, the Planning Director shall provide, at the owner's expense, the contact information for the owner or designated operator identified in 17.55.010(A)(5) to all dwelling units within 500 feet of the short-term rental unit's parcel boundary.

G. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.

H. Duty to Amend. If there are any material changes to the information submitted on a short-term rental permit application, the owner shall submit an amended application on a form to be provided by the City and signed by the owner under penalty of perjury within 30 days of any such changes, or immediately for any change in the owner or designated operator's contact information. For the purposes of this Section, any change to the information required to be included in a short-term rental permit application by subsection (D) of this Section shall constitute a material change. A permittee may not cure a violation of this Chapter by seeking to amend a short-term rental permit after a violation occurs; short-term rental of a property may only be conducted as specifically authorized by an active short-term rental permit.

I. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.

J. Nothing in this chapter shall limit the ability of a property owner, CC&Rs, or homeowners association or similar association from prohibiting or further limiting the short-term rental of property; such limitation shall be allowed.

K. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

L. Possession of a STR permit does not excuse any other permitting requirements of this code including but not limited to TOT and special event permit requirements.

17.55.030 Grounds for Denial and Revocation of Short-term Rental Permit

A. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:

1. The owner has not paid all TOT due or is not in compliance with Chapter 3.24 of this code.

2. The property has outstanding code enforcement violations.

3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.

4. The owner has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.

5. The owner has failed to amend an application as required by Section 17.55.020(H).

6. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter.

7. The property has received two or more citations for violation of the City's noise ordinance within a period of 12 consecutive months.
8. Failure to comply with Section 17.55.010(A)(13)
9. A holder of a Hosted Short-term Rental Permit receives three or more citations for violation of any combination of the following requirements within a period of 12 consecutive months, or a holder of a Multifamily Short-term Rental Permit receives two or more citations for violation of any combination of the following requirements within a period of 12 consecutive months:
    i. The requirements of Sections 17.55.010(A)(4), (7), (10), (11), 17.55.040(A), and Section 17.55.080.

17.55.040 Types of Short-term Rental Permits

Only a natural person may obtain a short-term rental permit, and that person may only possess one short-term rental permit. Possessing short-term rental permits for more than one legal lot or condominium, even if the permits are of a different type, is prohibited. The types of short-term rental permits available in the City shall be limited to the following:

A. Hosted Short-term Rental Permit. A primary resident owner may obtain this type of permit which allows hosted short-term rental of residential property, in compliance with this chapter, during the period that the permit is valid. The owner must live onsite during any period of rental, and must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner must be located onsite, and present immediately upon request, during the hours of 9 p.m. to 6 a.m. during any period that the unit is rented. A designated operator may fulfill the owner obligations listed in the prior two sentences for up to 60 days cumulatively during a calendar year so long as the owner provides the City written notice and contact information for the designated operator, two weeks in advance of the rental date, in a form acceptable to the City. Multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) are not eligible for this type of permit, with the exception that a primary resident owner of a condominium unit may obtain this type of permit for the unit where he or she has established his or her primary residence.

B. Multifamily Short-term Rental Permit. Owners of entire parcels that have multifamily residential buildings containing three or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments) may obtain this type of permit which allows the short-term rental of up to two units, or 40% of the units on the parcel (whichever is less), so long as all other units are rented for a period of one year or more. A unit that serves as the primary residence of the owner and a unit which is rented on a month-to-month basis to a tenant who has occupied the unit for more than one year shall qualify as a unit that is rented for a period of one year or more even though the lease specifies a shorter term. The owner of both units of a duplex may also

obtain this type of permit to rent one unit if the owner lives onsite during any period of rental in the other unit. The owner of the duplex must appear at the property within one hour of a phone call requesting such appearance by the City, an agent authorized by the City to make such calls, or law enforcement personnel. In addition, the owner the duplex must be located onsite, and present immediately upon request, during the hours of 9 p.m. to 6 a.m. during any period that the unit is rented. A designated operator may fulfill the owner obligations listed in the prior three sentences for up to 60 days cumulatively during a calendar year so long as the owner provides the City written notice and contact information for the designated operator, two weeks in advance of the rental date, in a form acceptable to the City

17.55.050 Renewal of Short-term Rental Permit

A. Renewal Application Deadlines. An application to renew a short-term rental permit must be received by the City Clerk not less than thirty days prior to the expiration of the short-term rental permit. Applications received after the deadline but before expiration of the permit may be accepted at the discretion of the City Manager or her/his designee.

B. Applications for renewal shall be in a form required by the City Manager and include updates of all information required or submitted for the permit.

C. No permit shall be renewed unless all city fees and taxes owed by the owner are paid in full, including the renewal fee.

17.55.060 Effect of Denial or Revocation of Short-term Rental Permit

A. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the City Manager or her/his designee shall not approve a new application for that owner and location for a 12 month period after the denial unless the City Manager or her/his designee determines that the reason for the denial has been cured and no longer exists. If the reason for denial is due to (1) the owner knowingly making any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application, (2) violation of Section 17.55.030(A)(9), or (3) two or more citations for violation of the City's noise ordinance in a period of 12 consecutive months, a new application shall not be approved for a period of at least 12 months from the date of the last violation or short-term rental of the property, whichever is later.

B. If a short-term rental permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of 12 months from the date of revocation.

C. The short-term rental of property (or advertisement, offer, or facilitation, of such rental) after denial or revocation of a short-term rental permit shall (in addition to any other penalty) result in the property and owner being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for

each such rental; such period is in addition to the prohibitions listed in sections (A) and (B) above.

D. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

17.55.070 Appeals

A. The denial of an application for a short-term rental permit, the renewal of such permit, or the revocation of such permit may be appealed by submitting a written appeal form detailing the basis for the appeal and any additional documentation the appellant would like to be considered.

B. The completed appeal form must be delivered to the City Clerk within 30 calendar days from the date the letter denying the application (for short-term rental permit or renewal thereof) or revoking the short-term rental permit was sent.

C. Failure to deliver the completed appeal form as required by section (B) above will result in the denial or revocation being deemed final.

D. While the appeals process is pending, the appellant is prohibited from the short-term rental of property and the short-term rental permit at issue shall not be valid.

E. Once a timely and complete appeal form has been received by the City Clerk a hearing on the matter shall be scheduled before the Planning Commission in accordance with the procedure detailed in Section 17.04.220 of this code. The decision of the Planning Commission shall be appealable to the City Council in accordance with the procedure detailed in Section 17.04.220 of this code.

17.55.080 Advertisement and Facilitation of Short-term Rentals

A. The owner shall include and prominently post the following information in any advertisement for short-term rental:

    1. The short-term rental permit number issued by the City;

    2. That the owner lives onsite and the owner or designated operator will live onsite throughout the visitor's stay unless the advertisement is for a permitted multifamily short-term rental;

    3. The permitted occupancy of the short-term rental as specified in the short-term rental permit application; and

    4. Any other information required by regulations promulgated pursuant to this Chapter.

B. No advertisements regarding the availability of a dwelling unit for short-term rental shall be posted in or on any exterior area of the dwelling unit, any exterior area of any other dwelling unit on the same lot, or the lot on which the dwelling unit is located.

C. The address of the property shall be prominently displayed.

D. No person or entity shall offer, advertise or facilitate the short-term rental of property in the city unless the owner possesses a valid short-term rental permit for its rental.

E. Any offer or advertisement for the short-term rental of property in the City that does not contain a valid short-term rental permit number, or which the City identifies as illegal to the person or entity advertising or offering the rental, shall be immediately removed from any location it is posted, whether online or otherwise.

17.55.090 Hosting Platform Responsibilities

A. Hosting platforms shall be responsible for collecting all applicable TOT and remitting the same to the City. The hosting platform shall be considered an agent of the owner for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.24 of this Code. Should a hosting platform fail to fulfill its responsibilities under this Section the owner shall remain responsible for collection and remittance of the TOT the Hosting platform failed to collect and/or remit to the City.

B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the owner for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.

C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.

D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.

E. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), (C), and (D) above, shall be presumed to be in compliance with this Chapter. If technical issues pose a substantial obstacle to compliance with this Section, a hosting platform may also satisfy these obligations pursuant to a compliance agreement with the City that prevents booking transactions for unpermitted short-term rentals, collects all transient occupancy tax due, and complies with the disclosure requirements of this Section..

F. The provisions of this Section 17.55.090 shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.55.100 Regulations

The City Manager or designee may promulgate regulations to facilitate the purposes of this Chapter.

17.55.110 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 Section 17.55.020(A) by an owner shall be subject to a fine of $1000 per day or violation, or twice the short-term rental's advertised daily rental rate per day or violation, whichever is higher, and for all other violations an owner shall be subject to a fine of $500 per day or violation, or the short-term rental's advertised daily rental rate per day or violation, whichever is higher.

B. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code or local coastal program committed by guests at the property.

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.

H. MMC Title 17 – Appendix 1 (Permitted Uses Table) – Key to Table is hereby amended to read as follows:

KEY TO TABLE (In addition to a coastal development permit where applicable, MCUP, CUP, LFDC, STR & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	Permitted use
MCUP	Requires the approval of a minor Conditional Use Permit by the Director
CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility
STR	Use requires valid short-term rental permit approved by the City
•	Not permitted (Prohibited)

I. MMC Title 17 – Appendix 1 – (Permitted Uses Table) is amended by inserting the following new use category after the "Home Occupations" use category in the table and a new footnote 32:

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Short-term rental	STR[32]	STR[32]	STR[32]	STR[32]	STR[32]	·	·	·	·	·	·	·	·	·	·	·

32. Single-family residence properties are limited to hosted short-term rental permits only; one dwelling unit in a duplex may be rented unhosted if the owner or designated operator lives onsite in the other dwelling unit during

the rental period; and for multifamily properties, a maximum of two dwelling units per parcel, or 40%, whichever is less, may be devoted to short-term rental use.

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SECTION 6. Text Amendments.

Title 15 of the Malibu Municipal Code is amended by adding Section 15.44.030(C)(7) as follows:

7. With any application by the owner (or owner's agent) for a short-term rental permit pursuant to Chapter 17.55. The application for the operating permit shall be made prior to or concurrent with the application for a short-term rental permit. An operating permit will be issued when the work is complete and the system has been determined to be functioning in compliance with all applicable requirements.

SECTION 7. Zoning Text Amendment Findings.

The City Council hereby finds that ZTA No. 19-005 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], protect rural residential character [General Plan LU Policy 1.1.4], protect and preserve the unique character of the City's distinct neighborhoods, and conserve affordable housing in the Coastal Zone [General Plan Housing Policy 1.4].

ZTA No. 19-005 will support these policies by introducing regulations to reduce the impact of short-term rentals on neighbors and the community.

SECTION 8. Environmental Review.

The City Council 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 City Council 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. The ordinance will impose regulations that limit the environmental impacts of residential use of property compared to those currently in place and that of owners and long-term renters. Further, the Ordinance is exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines which states that permitting and licensing of existing private structures involving negligible or no expansion of existing or former use in that the proposed short-term rental permitting program will establish rules and regulations that do not expand existing residential uses. Additionally, the Ordinance is exempt pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) in that the regulatory program established will facilitate enforcement actions, such as permit revocation, for nuisance short-term rental properties. Finally, in accordance with the CEQA, Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This Ordinance is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect.

SECTION 9. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 10. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit the LCP amendments contained in Section 2 of this Ordinance to the California Coastal Commission per Title 14, California Code of Regulations Section 13554.5(a).

SECTION 11. Effectiveness.

The LCP amendment and corollary ZTA approved in this Ordinance shall become effective only upon certification by the California Coastal Commission of this amendment to the LCP.

SECTION 12. Certification.

The City Clerk shall certify to the passage and adoption of this ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this 23rd day of November, 2020.

MIKKE PIERSON, Mayor

ATTEST:

HEATHER GLASER, City Clerk

Date: December 7, 2020

APPROVED AS TO FORM:

CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 472 was passed and adopted at the Regular City Council meeting of November 23, 2020, by the following vote:

AYES:	4	Councilmembers:	Farrer, Mullen, Peak, Pierson
NOES:	0		
ABSTAIN:	1	Councilmember:	Wagner
ABSENT:	0		

HEATHER GLASER, City Clerk
(seal)

Contact Name
Adam Schwartz
Alan Armstrong
Alexis & Max Byfuglin
Andrew Gombiner, Andrew S. Gombiner Living Trust
Ann Doneen
Anne Hoffman
Anne Payne
Anne Ready
Annie Ellis
Anthony McDemas
Antoinette Berget
Arfakhashad Munaim, Senior Planner, Schmitz and Associates, Inc.
Beate Nilsen
Beatrix Zilinskas
Bill Cacciatore, Malibu Country Estates HOA
Bill Sampson
Bj Pike
Bob Perkins
Bonnie Stoilkovich
Brad Norris, Malibu Health Club
Brent Almond
Brian Klein
Brian Merrick
Brian Merrick
Brian Pendleton
Bruce Greenspan
Carol Bretonne, Carol A Bretonne Trust
Carol Randall, Representative, Las Flores Beach Residents
Carolyn Currier
Carsten Cramer
Cesar Morea
Charissa Seaman, Dance Star Entertainment
Dance Star
Charissa Seaman, Malibu Dance Studio
Charles Skouras
Charlie Stiegler, J and L Stiegler Trust
Chase D. Lambert
Chris & Pat Reed
Chris Blakely, President, Blakely Malibu, LLC
Chris Frost
Christina Vescovo
Christopher Blakely, President, Blakely Malibu, LLC
Christopher Parsee
Claudia Taylor
Colin Drummond
Craig Payne, Block & Block/Justin Block

Dagmar Zilinskas
Dana Christiaansen, Christiaansen Family Trust
Dana Friedman
Dariel Miller
David Eveland
David Isackson
David Pazewski
Dean Wenner
Deena Sacks
Denise Venegas, Coastal Program Analyst, California Coastal Commission
Dennis J. Seider, Parker Mills LLP
Dennis Smith, Dennis Robert Smith Constr LLC
Diana Klein
Don Schmitz, Schmitz and Associates, Inc.
Don Tollefson
Doug Caroll
Doug Stewart, Malibu Pacifica Homeowner's Association
Ed and Constance Bell
Edith Morgan
Ella Cooper
Eric Dreren
Eric Rochin
Ernest Guadiana
Frank Angel
Fred Gaines, Gaines & Stacey LLP
Gary Zethraeuss
Gene Zilinskas
George Roland
Georgia Goldfarb
Government Affairs - BIA/LAV
Graeme Clifford
Ian Ballan
J Sofer
Jake Jesson, 180 PCH, LLC
James Isaacs
James Palmer
Jane Kagon
Jannette Frazier, Malibu Riviera III
Jean Summens
Jeff Boston, SeaBreeze VRs
Jeff Kletter
Jeff Mohr, Corona Del Malibu HOA
Jeffrey Light, President, Escondido Beach HOA
Jeffrey Seymour, Seymour Group
Jeffrey Singer
Jennifer Grossman
Jennifer Pietro, Reef Check Foundation

Jeremy Smith, Krane Smith
Joanne Drummond
Joanne Gary
Joey and Georgia Goodman
John Choi, Public Policy, AirBnB
John Hillcoat
John Mazza
John Payne
John Stiegler
Jonathan Kaye, Winding Way/Murphy Way HOA
Joseph Agi
Joseph Geus, Joseph Geus Co. Trust
Joshua Gottheim, CANZONERI GOTTHEIM LAW LLP
Julia Holland, The Eco Hero Kids Foundation
Julie Graham-Bell
Julie Hoffman
Justin Block, Block and Block
Kathryn Bentzen
Kathryn Morea
Keegan Gibbs
Ken Nilsen
Kenneth A. Ehrlich, Elkins Kalt Weintraub Reuben Gartside LLP
Kim Kanner
Klaus Radtke
Kraig Hill, Maryann Hill Trust
Kris Teachman
Kyndell Gaglio, Vice President, Mercury, LLC
Larry Stokesberry
Larry Stuppy
Laurence Steinsapir
Laurence Stuppy II, Manager, Tutu's Treat, LLC
Lee LaPlante
Lindsay Albert
Lisa Pallack
Lisa Turnbaugh
Liza Bercovici
Lloyd Ahern, Las Tunas Beach Residents Association
Lori Kantor
Lotte Cherin, Ramirez Canyon HOA
Lydia Rink
Lynn Maccuish, Lynn M Maccuish Trust
Lynn Norton
Marc Maniscalco
Marianne Riggins
Mario Nieto
Marshall Camp
Marshall Thompson, Malibu Park HOA

Martha Fling
Maryann Rubenstein
Matthew Niblett, Inline
Matthew Ogden, Malibu Association of Realtors
Maud-Ann Sunderland, Manager, Malibu West Swimming Club
Maurice and Melanie Goudzwaard
Max & Alexis Byfuglin
Max A.
Max Byfuglin
Max Rubio
MCP Heating, MPC Heating
Mehrdad Sahafi
Michael Beeghley
Michael Lustig
Michael McKean, Michael McKean Trust
Michael Stein
Michelle & Philippe LeFevre
Milander John, Scott Mitchell Studio, Inc.
Mindy and Bruce Silverstein
Monica R. Briseno, Esq., Elkins Kalt Weintraub Reuben Gartside LLP
Muriel Kotin
Murray Sumner
Natalie Kehzokyan
Nicholas Hale
Noah Stewart, Government Affairs Coordinator, HomeAway
Norman Haynie, Blue Onyx Design and Engineering, Inc.
Norman Jarrett
Pamela Van Ierland
Pat Meyer
Patricia Hill
Patricia Schone
Patrick Perry, Allen Matkins
Patt Healy, Malibu Coalition for Slow Growth
Paul & Judy Fogel, Paul and Judy Fogel Trust
Paul Boulet
Paul Grisanti, Paul and Sara Grisanti Trust
Paul Jhin
Polly Borland & John Hillcoat
Randy Turtle
Rebecca Thompson, Gaines Law
Rich Olson
Richard Lawrence, Malibu Township Council
Richard Olson
Richard Weintraub, Weintraub Financial Services
Robert Beyer, Siegels Malibu
Robert Cramer
Roger Rosen

Rosemary Sampson
Rosie Wheeler
Rusty Shackelford
Ryan Embree
Ryan Silverman
Samir Srivastava
Sara Daoud
Scott Dietrich, Lower Rambla Pacifico Road Owners Association
Scott Dittrich, Scott Dittrich Films
Sean Cummings
Sharone Karsh
Sherone Karsh
Stacy Clunies-Ross, Stacy Clunies-Ross Trust
Stephanie Cordoni, Assistant to Dana Friedman
Steve Uhring
Steve Uhring, Malibu Knolls Property Owners Association
Steven Sindell
Stuart Townsend
Susan Manners, Malibu Association of Realtors
Susan Tellem
Susan Tellem, Tellem Worldwide, Inc.
Suzanne Dvorak Peck
Suzanne Dworak
Tatiana Goode
Taylor Lee
Teri Marx
Terry Lucoff
Tommy Stoilkovich
Tony Canzoneri, CANZONERI GOTTHEIM LAW LLP
TOT ALL LIST
Trancas Property Owners Association
Trevor Albert
Victoria Wexley
Walt & Lucile Keller
Walter Gonzales, Government Affairs Manager, SW, ECLA
Waverly Lassila