

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 Raffelis 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.

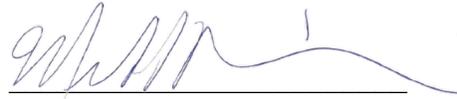
The City Council hereby directs staff to submit LCPA No. 3-001 to the CCC for certification, in conformance with the submittal requirements specified in California Code of Regulations, Title 14, Division 5.5., Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations section 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 5<sup>th</sup> day of November 2020.

  
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MIKKE PIERSON, Mayor

ATTEST:

  
\_\_\_\_\_  
HEATHER GLASER, City Clerk  
(seal)

APPROVED AS TO FORM:

  
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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 5<sup>th</sup> 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)