



# 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

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**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.

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<sup>1</sup>
- 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

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<sup>1</sup> 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.

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MIKKE PIERSON, Mayor

ATTEST:

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HEATHER GLASER, City Clerk

Date: \_\_\_\_\_

APPROVED AS TO FORM:

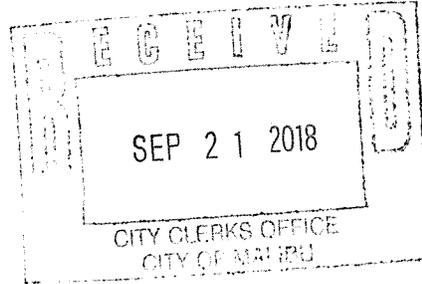
THIS DOCUMENT HAS BEEN REVIEWED  
BY THE CITY ATTORNEY'S OFFICE

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CHRISTI HOGIN, City Attorney

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 an 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.

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

Sincerely,

Denise Venegas  
Coastal Program Analyst

cc: Reva Feldman, City Manager, City of Malibu

CC: Council; CM; CA; PL; Ref. Bilder; Original to 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](mailto: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](http://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](http://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