



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

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, 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, including the 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

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 Lustig² 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-share⁴ 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

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.

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- 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.

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

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		

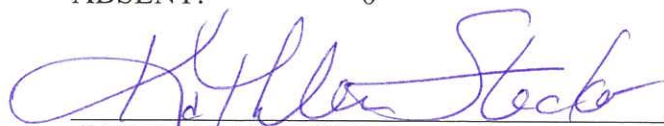

KATHLEEN STECKO, Recording Secretary

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 Section 17.55.010(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

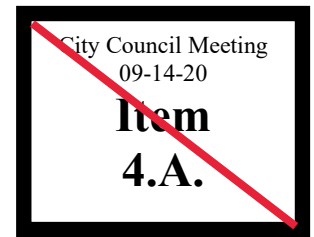
- paid for each stay.
- C. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry of properties with valid short-term rental permits at the time the hosting platform receives a fee for the booking transaction.
 - D. 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.



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 LPCA 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 LPCA 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 LPCA/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 LPCA with the understanding that it would be superseded by the new Santa Monica-style LPCA/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 LPCA 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 LPCA 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 LPCA/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 LPCA/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 Lustig² 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-share⁴ 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 City⁶ 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 Section 17.55.010(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.



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.

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 City¹
- 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 OWS 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



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.

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 139 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 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.

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, <u>the following MCUP, CUP, LFDC, STR & WTF</u> permits are required <u>pursuant to the Malibu Municipal Code where shown in this table.</u>)	
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
<u>STR</u>	<u>Use requires valid short-term rental permit approved by the City</u>
-	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

Patricia Salazar

Subject: FW: ST Rental Ordinance

From: Robert Greene <
Sent: Thursday, August 20, 2020 12:32 PM
To: City Council <citycouncil@malibucity.org>
Subject: ST Rental Ordinance

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 Cervený <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 preparatory 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.

Enforcement is the key. That will be our big problem.

John Mazza

-----Original Message-----

From: Paul Wolf [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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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

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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 <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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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" <BBblue@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

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.

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>.

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Location: Citywide
Case Planner: Justine Kendall, Associate Planner
(310) 456-2489, extension 301

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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 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.

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
<u>STR</u>	<u>Use requires valid short-term rental permit approved by the City</u>
.	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

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.??

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

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

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.

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](https://www.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