



# Council Agenda Report

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

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Bonnie Blue, Planning Director

Approved by: Reva Feldman, City Manager 

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

Subject: Short-Term Rental Ordinance

---

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

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

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

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

## Background

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

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

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

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

## Current Market Landscape

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

---

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

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

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

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

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

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

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

---

<sup>2</sup> Units in multifamily buildings are counted as separate and distinct units.

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

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

### Legislative Review

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

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

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

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

1. A ban on short-term rental properties with outstanding code enforcement violations, as well as the advertisement of such properties, with each violation of the ban resulting in the ban extending an additional six months from the date the enforcement violation is cured;
3. A ban on the short-term rental of multifamily housing, except for home sharing (where the owner is present on the property during the stay), which prevents this housing from being converted to hotel/motel use;
4. A limit on the number of days a property can be rented;
5. Requirement of proof of primary residence at the property, or that the host live at the property for a certain number of days a year;

6. A requirement that rentals meet certain standards, e.g. annual inspections, onsite parking for all guests, handicapped access on the property and in the home, compliance with all fire safety and occupancy codes, requiring onsite manager or that the manager is available 24-7; and
7. A requirement that CC&Rs for future developments and/or major remodels in the City to include provisions banning short-term rentals.

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

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

1. Prohibition of short-term rentals and home sharing in the Multi-Family Residential zone for complexes with three or more units:
2. A requirement for signage indicating 24 hours per day, seven days per week contact information for a designated manager, visible to the public at all times;
3. A requirement for compliance terms to be met or revocation of rental privileges be imposed for six months, to be increased upon lack of further compliance, which could lead to criminal penalties if compliance is ultimately not met; and
4. A requirement that homeowners attest when they register that their homes have smoke detectors with an inspection provision;

The Subcommittee also recommended that staff research:

- Covenants, conditions, and restrictions of homeowners associations that could provide examples for communities that would like to create privately enforceable restrictions;
- Whether the owner should be allowed to be the designated manager;
- Examples of types of contact information signage used in other communities;
- The cost to fund one or two full-time positions related to enforcement;
- The need for an inspection program for wastewater treatment systems; and

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

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

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

- Directed staff to prepare a resolution stating that the Planning Commission recommends that the City Council find that the short-term rental of property is currently prohibited in all residential zones in the City and adopt an ordinance memorializing that prohibition; and
- Directed staff to include in the resolution a recommendation that if a ban on the short-term rental of property was not put in place, a CEQA environmental study be prepared if necessary.

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

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

#### May 7 Planning Commission Meeting Comments

##### *Commercial Use of Property in Residential Zones*

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

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

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

#### *Corporate Ownership of Residential Homes*

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

#### *Definition of Multi-Family Residence*

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

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

#### *Primary Residence Requirement*

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

#### *Permitting System*

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

#### *Occupancy Rates*

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

#### *Short-Term Rental Code of Conduct*

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

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

#### *Noise and Neighborhood Nuisance Issues*

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

### *California Environmental Quality Act*

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

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

### Draft Ordinance

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

- 1) Institutes a permit system where the owner of a short-term rental property must possess a valid Short-Term Rental Permit (STR Permit). Each permit will be assigned a unique number, and a separate permit application is required for every rental unit.
- 2) The STR Permit Application shall include contact information for the owner or owner's agent. The owner or owner's agent must be available to answer calls from the City and deal with any problems at the short-term rental property twenty-four hours a day, seven days a week.

- 3) The STR Permit Applicant shall attest that they are in compliance with all requirements of the Short-Term Rental Ordinance, MMC Chapter 3.24, including compliance with all applicable codes regarding fire, building and safety and other relevant laws, as well as the requirement that there are no outstanding code violations on the property.
- 4) The STR Permit is valid for one year and must be renewed annually.
- 5) The contact information for the owner or owner's agent shall be provided to all properties within 500 feet of the parcel boundary at the owner's expense. This is intended to provide neighbors a point of contact to informally raise or resolve concerns. This requirement was included in lieu of signage due to potential security risks associated with identifying a property as a rental.
- 6) The property must have onsite parking for all guests, unless the property does not have onsite parking, in which case guests are limited to parking two vehicles on the street. If street parking for more than two vehicles is necessary, a special event permit (SEP) must be obtained. This requirement is designed to limit overflow on-street parking as the SEP would count against the maximum of four events allowed each year per residential parcel.
- 7) Owner or owner's agents is required to grant City representatives access to the property and records if needed for inspection or audit.
- 8) The owner shall provide a Short-term Rental Code of Conduct prepared by the City, intended to provide important information, including rules and expectations for conduct, to all guests and post it inside the entrance to the dwelling. A draft Code of Conduct is included as Attachment 3.
- 9) The maximum occupancy of short-term rental units is designed to coincide with the number of bedrooms in the dwelling unit. The maximum occupancy is limited to two people more than twice the number of bedrooms of record, up to 14 people max. This is consistent with the requirement of MMC Section 5.34.020(C) to obtain a special event permit if a short-term rental is proposed to accommodate 15 people or more.
- 10) The STR Permit Number shall be displayed on all short-term rental advertisements. This will facilitate monitoring and enforcement of short-term rentals.
- 11) The STR Permit can be denied or revoked if the applicant is found to have knowingly made false statements in the application.

- 12) The STR Permit can also be denied or revoked if the property is found to have not paid TOT due, has outstanding code violations, does not comply with all applicable codes, is not in the condition to be rented on a short-term basis or if the property has received more than two citations for noise violations within a consecutive twelve month period.
- 13) The STR Permit can also be denied or revoked if a total of three citations for violation of any combination of the following requirements occur within a consecutive twelve month period: parking, responsiveness, access, posting of the Code of Conduct, maximum occupancy and listing the permit number on all advertisements.
- 14) Short-term rental of any vehicle, trailer, tent, storage shed, garage, or other such premises is explicitly prohibited. This provision specifically clarifies the existing ban on individuals offering Airstreams, tents and similar places as vacation rentals.
- 15) A ban on short-term rentals in multifamily buildings containing three or more units, except for home sharing (where the owner is present on the property during the stay).
- 16) If an application for a STR Permit is denied, a new application cannot be approved for that applicant and location for a twelve month period.
- 17) If a STR Permit is revoked the short-term rental of the property must cease immediately and shall not be permitted for a period of twelve months from the date of revocation.
- 18) The short-term rental of property or the advertisement of property for short-term rental after denial or revocation of a STR Permit shall result in the property and the applicant being ineligible to conduct short-term rental of property for an additional six month period for each such rental.
- 19) It establishes an appeal process for the denial or revocation of a STR Permit and prohibits the appellant from the short-term rental of property when the appeals process is pending.
- 20) The appeals process includes a hearing to be scheduled before the Planning Commission. The decision of the Planning Commission shall be appealable to the City Council.
- 21) Violations are subject to fines of \$1,000 per day or violation.
- 22) The STR Permit holder shall be responsible for administrative citations for violations of the municipal code committed by guests at the property.

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

#### Implementation and Enforcement of the Proposed Ordinance

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

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

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

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

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

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

#### ATTACHMENTS:

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

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

ORDINANCE NO. 435

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

The City Council of the City of Malibu does hereby ordain as follows:

SECTION 1. Recitals.

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

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

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

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

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

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

G. On November 20, 2017, the Planning Commission held a duly noticed public hearing on ZTA No. 17-002, at which time the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony and other information in the record. The Commission discussed additional information they wished to receive and potential changes to the draft ordinance.

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

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

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

## SECTION 2. Zoning Text Amendments.

Title 17 of the Malibu Municipal Code is amended as follows:

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

“Short-term rental” of property shall mean the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of thirty (30) consecutive days or less to a transient.

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

Section 17.55.010 Short-term Rental Permit Required.

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

- 
- D. Review and Approval. Short-term rental permits shall be subject to the approval of the City the City Manager or her/his designee.
- E. Notice of Approval. The Planning Director shall provide, at the owner's expense, the contact information for the owner's agent identified in (B)(2) above to all dwelling units within five hundred (500) feet of the parcel boundary.
- F. Duration. Short-term rental permits shall be issued for one year and must be renewed annually.
- G. Fees. The amount of any fees to be collected pursuant to the provisions of this chapter shall be established by resolution of the City Council from time to time.
- H. Grounds for Denial or Revocation. The City Manager or her/his designee shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:
1. The applicant has not paid all transient occupancy tax due, or is not in compliance with Chapter 3.24 of this code.
  2. The property has any outstanding code enforcement violations.
  3. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
  4. The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
  5. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of this chapter (e.g. a property with outstanding code violations may not be rented).
  6. The property has received more than two citations for violation of the City's noise ordinance within a period of twelve (12) consecutive months.
- I. Nothing in this chapter shall limit the ability of a property owner, Covenants, Conditions and Restrictions (CC&Rs), or homeowners association or similar association from prohibiting or further limiting the short-term rental of property.

#### 17.55.020 Specific Requirements for Short-term Rentals.

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

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

3. Owner or owner's agent shall provide full access to the property, and documents related to compliance with this Chapter, during normal City Hall business hours or at any time the dwelling unit is rented immediately upon request by the City Manager or her/his designee for purposes of inspection or audit.
4. Owner or owner's agent shall provide all guests with the Short-term Rental Code of Conduct, which shall be developed by the City Manager, and post the same on the inside of the main entrance door to the dwelling unit rented, or on the wall adjacent thereto.
5. The maximum occupancy of a short-term rental property shall be limited to two (2) people more than twice the number of bedrooms listed on City or County records up to a maximum of fourteen (14) people, unless a special event permit is obtained pursuant to Chapter 5.34 of this code.
6. The short-term rental permit number must be prominently posted on all advertisements for the short-term rental of the property.

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

#### 17.55.030 Short-term Rentals in Multifamily Housing.

- A. Short-term rental of property is prohibited in multifamily residential buildings containing three (3) or more dwelling units (including, but not limited to, triplexes, condominiums, stock cooperatives, apartments, and similar developments):
1. No person or entity shall offer, advertise, or facilitate the short-term rental of such properties.
  2. No person shall occupy a residential dwelling, a dwelling unit or a portion thereof for a period of thirty (30) consecutive days or less pursuant to a rental agreement, lease, license or any other means, whether oral or written, for compensation or consideration, in such buildings.
- B. Section 17.55.020(A) does not apply to the short-term rental of a dwelling unit in a multifamily residential building if the unit owner: (1) lives in the dwelling unit throughout the visitor's stay, and is present in the unit for at least eight (8) hours a day, (2) complies with the requirements of 17.55.010, and (3) if contacted by City staff, the owner appears within ninety (90) minutes in person at the property.
- C. Nothing in this chapter shall prohibit the operation of a hotel, motel or bed and breakfast inn where such use is permitted.

#### 17.55.040 Renewal of Short-term Rental Permit.

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

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

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

#### 17.55.060 Revocation

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

#### 17.55.070 Appeals

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

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

#### 17.55.080 Enforcement, Violations and Penalties.

- A. In addition to the other penalties and remedies available to the City, violations of this Chapter shall be subject to the administrative citation provisions of Chapter 1.10, except that any violation of this Chapter shall be subject to a fine of \$1000 per day or violation.
- B. The short-term rental permit holder shall be held responsible for administrative citations for violations of the municipal code committed by guests at the property.
- C. Any violation of this Chapter shall constitute a separate offense for each and every day the violation occurs or persists.
- D. These penalties and remedies are cumulative and in addition to any other penalties and remedies available to the City.

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

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

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

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

APPROVED AS TO FORM:



A handwritten signature in black ink, appearing to read 'CHRISTI HOGIN', is written over a horizontal line.

CHRISTI HOGIN, City Attorney

CITY OF MALIBU PLANNING COMMISSION  
RESOLUTION NO. 18-26

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

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

SECTION 1. Recitals.

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

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

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

D. On November 20, 2017, the Planning Commission held a duly noticed public hearing on the draft ordinance, at which time the Planning Commission reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record. The Commission discussed additional information they wished to receive and changes to the draft ordinance.

E. On April 12, 2018, a one-quarter page Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu. Display ads were also published in local newspapers. A public hearing notice was also mailed to all interested parties, regional, state and federal agencies affected by the amendment, local libraries and media, the California Coastal Commission, and all parties registered with the City for payment of transient occupancy tax.

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

SECTION 2. Zoning Text Amendment Recommendations

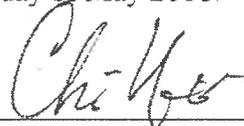
Pursuant to MMC Section 17.74.040, the Planning Commission makes the following recommendations.

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

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

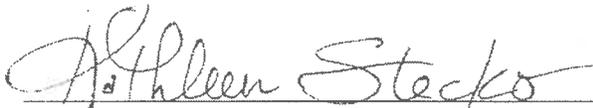
SECTION 5. The Planning Commission shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 7<sup>th</sup> day of May 2018.



CHRIS MARX, Planning Commission Chair

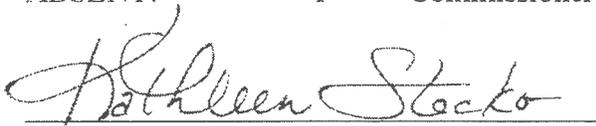
ATTEST:



KATHLEEN STECKO, Recording Secretary

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

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



KATHLEEN STECKO, Recording Secretary

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



## RESOURCES

### SHORT-TERM RENTAL HOTLINE

XXX-XXX-XXXX

### CITY CODE ENFORCEMENT

310-456-2489, ext.484

### LOS ANGELES COUNTY SHERIFF DEPARTMENT

818-878-1808

### LOS ANGELES COUNTY FIRE DEPARTMENT

310-317-1802

### MALIBU EMERGENCY & TRAFFIC HOTLINE

310-456-9982

## CONTACT US



23825 Stuart Ranch Rd  
Malibu, CA 90265



310-456-2489



MalibuCity.org/STR



CITY OF MALIBU

# SHORT-TERM RENTAL CODE OF CONDUCT



CITY OF MALIBU

## NEIGHBORHOOD IMPACTS

### **Occupancy:**

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

### **Noise:**

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

### **Trash:**

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

(MMC Section 9.28)

### **Parking:**

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

### **Special Events:**

A Special Event Permit is required in conjunction with a short-term rental if 15 or more people are anticipated to attend.

(MMC Section 5.34.020(C))

### **Fines:**

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

# SHORT-TERM RENTAL CODE OF CONDUCT

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

## ENVIRONMENTAL REGULATIONS

### **Plastic Bag Ban:**

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

### **Polystyrene Foam Ban:**

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

### **Plastic straws and cutlery:**

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

### **High Risk Fire Hazard Severity Zone:**

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

### **Onsite Wastewater Treatment:**

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

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

**NOTICE OF PUBLIC HEARING  
CITY OF MALIBU  
CITY COUNCIL**

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

**SHORT-TERM RENTAL ORDINANCE**

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

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

The draft ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The Planning Director has determined under Section 15061(b)(3) of the State CEQA Guidelines the draft ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

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

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

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

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

  
\_\_\_\_\_  
Bonnie Blue  
Planning Director

Publish Date: June 14, 2018