

SUBJECT: ZONE TEXT AMENDMENT PROHIBITING CORPORATE  
RENTALS OF DWELLING UNITS

INITIATED BY: DEPARTMENT OF COMMUNITY DEVELOPMENT  
(Bianca Siegl, Long Range & Mobility Planning Manager)  
(Michelle Levy, Senior Planner)  
(Garen Srapyan, Associate Planner)

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### **STATEMENT ON THE SUBJECT**

The Planning Commission will hold a public hearing to consider an amendment to the Zoning Ordinance that would prohibit corporate rentals of dwelling units in the City of West Hollywood.

### **RECOMMENDATION**

Staff recommends that the Planning Commission hold the public hearing, consider all pertinent testimony, and adopt the following:

- 1) Adopt draft Resolution No. PC 16-1181: **“A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD, RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AN ORDINANCE AMENDING CHAPTER 19 OF THE WEST HOLLYWOOD MUNICIPAL CODE TO PROHIBIT CORPORATE RENTALS OF DWELLING UNITS CITYWIDE, WEST HOLLYWOOD, CALIFORNIA.”** (EXHIBIT A)

### **BACKGROUND**

On October 21, 2015, Ordinance No. 15-985 took effect, reaffirming the City’s prohibition of short-term vacation rentals. The Ordinance expressly prohibits (1) renting all or a portion of a dwelling unit for thirty (30) days or less to transient visitors and (2) advertising dwelling units for short-term rental. The Ordinance applies to existing units in West Hollywood as well as any new units constructed. The Ordinance was adopted in response to recommendations received from the City’s Shared Economy Task Force, which focused primarily on vacation rentals.

Following adoption of the Ordinance (on July 20, 2015), the City became aware of a new type of short-term rental. “Corporate housing” provides fully-furnished living accommodations to persons traveling for business purposes, which may involve rentals exceeding 30 days. On September 21, 2015, the City Council directed the City Attorney to prepare an ordinance amending the Zoning Code to prohibit the use of residential

dwelling units for corporate housing and other similar uses involving the unaccompanied overnight lodging of individuals other than the owner or lessee (Exhibit B).

The intent of the proposed zone text amendment is to further clarify the City's restrictions on the use of dwelling units to include all forms of short-term transient uses, which may disrupt the stability of residential communities, present public safety challenges, and reduce the availability of affordable and market-rate housing.

### *Summary of Proposed Changes*

The recommended amendments to the Zoning Code address the following concerns:

1. Prevent corporations or businesses from leasing out and reserving one or more residential dwelling units for temporary occupancy (oftentimes these units are leased on a semi-permanent basis and remain largely unoccupied);
2. Maintain a healthy supply of rent-stabilized and market-rate dwelling units; and
3. Provide stability to the City's residential neighborhoods.

While the proposed changes could be more restrictive on corporations or businesses that encourage their employees to live and work in West Hollywood, it would **not** prohibit a corporation or business from providing housing for their employees by means of an employee stipend, for example. Several recently-constructed buildings offer one-to six-month leases for those who need short-term housing on an on-demand basis, and these uses would continue to remain acceptable for employees who need short-term accommodations; our goal is to ensure that dwelling units are being consistently occupied and fully utilized rather than remaining empty – in the context of a City with a pressing need for available dwelling units.

The proposed zone text changes will prevent dwelling units from being reserved by a corporation or business and potentially sitting unoccupied for long periods of time when not in use by an employee.

Below is a summary of the proposed changes:

#### **Define “Corporate Housing”**

Corporate Housing will be defined as a dwelling unit that is (1) owned, leased or made available by a business or corporation for the occupancy of its employees, **AND** (2) the employee(s) do not intend to use the dwelling unit as their permanent residence or have not entered into a 1-year lease agreement.

#### **Add a New Land Use for Corporate Housing**

Add the use “Corporate Rentals” to the residential and commercial land use tables, the latter of which involves mixed-use projects, and prohibit such uses in all zones.

#### **Conditions of Approval for New Development**

For any proposed residential development projects (including mixed-use), add a condition in the Development Permit Approval to restrict corporate rentals.

## **Residential Condominium Projects**

Add a condition to proposed condominium Conditions, Covenants, and Restrictions (CC&Rs) to restrict corporate rentals.

### *Enforcement*

As part of Title 19 of the West Hollywood Municipal Code, the zone text amendment language regarding the prohibition of corporate rentals will be implemented through development project review and enforced by the City's Code Compliance Division. It is intended that Code Compliance will open cases on a reactive basis, in response to complaints received by the public. For enforcement of short-term rentals, Code Compliance has begun being more proactive in the enforcement. On July 18, 2016, Code Compliance provided a six-month update to the City Council on the City's short-term rental ban, which included adding additional staffing to effectively enforce the City's Ordinance. Similar measures may be used to enforce the Corporate Rental prohibition.

### Planning Commission Long-Range Planning Subcommittee

The Long-Range Planning Projects Subcommittee discussed the proposed zone text amendments on July 21, 2016. The Commissioners requested a modification of the definition of corporate rentals. Some Commissioners expressed concern that the proposed zone text amendment would be unfriendly to local businesses and would be difficult to enforce.

### Public Comment & Correspondence

Staff presented the proposed amendment to the West Hollywood Chamber of Commerce Government Affairs Committee on September 13, 2016. The Chamber members recommended that the City get more information on the extent to which dwelling units are currently being used for corporate rentals and requested staff to look into alternatives that are less restrictive but still provide a regulatory framework around the use of dwelling units for corporate rentals. Additionally, the Committee expressed some of the benefits for allowing for corporate rentals of dwelling units, including: introducing people to the community, incentivizing corporations or businesses to be based in West Hollywood, potentially reducing traffic and contributing to a walkable neighborhood. Staff has been unsuccessful in finding reputable data to show the use of corporate rentals of dwelling units in West Hollywood. The City's awareness of this use has primarily been through word-of-mouth.

### Public Notice

The City published a legal notice in the Beverly Press and West Hollywood Independent on October 6, 2016. In addition to the noticing required by the Municipal Code, the Planning Division noticed all West Hollywood neighborhood groups by October 7, 2016.

### California Environmental Quality Act (CEQA)

The proposed zone text amendment is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 of the CEQA Guidelines. Section 15061 states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. 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 proposed text amendments reaffirm and promote the long-term tenancy of dwelling units, as those units were intended, and therefore will not have a significant effect on the environment.

### **EXHIBITS**

- A. Draft Resolution No. PC 16-1181
- B. September 21, 2015 City Council Staff Report

## RESOLUTION NO. PC 16-1181

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WEST HOLLYWOOD RECOMMENDING CITY COUNCIL APPROVAL OF AN ORDINANCE AMENDING CHAPTER 19 OF THE WEST HOLLYWOOD MUNICIPAL CODE TO PROHIBIT CORPORATE RENTALS OF DWELLING UNITS, CITYWIDE, WEST HOLLYWOOD, CALIFORNIA.**

The Planning Commission of the City of West Hollywood does hereby resolve as follows:

#### SECTION 1. Findings.

(a) Ordinance No. 15-985 took effect on October 21, 2015, reaffirming the City's prohibition of short-term vacation rentals. The Ordinance expressly prohibits renting all or a portion of a dwelling unit for thirty (30) days or less to transient visitors and advertising dwelling units for short-term rental. Additionally, the Ordinance applies to existing units in the City of West Hollywood as well as any proposed new units. The Ordinance was adopted in response to recommendations received from the City's Shared Economy Task Force, which focused primarily on vacation rentals.

(b) Since the adoption of Ordinance No. 15-985 in 2015, the City became aware of a new species of short-term rentals. "Corporate housing" provides fully-furnished living accommodations to persons traveling for business purposes, and which may involve rentals exceeding 30 days.

(c) To address these issues, the City Council directed the City Attorney to prepare an ordinance further clarifying the City's restrictions on the use of dwelling units to include all forms of short-term transient uses, which may disrupt the stability of residential communities, present public safety challenges, and reduce the availability of affordable and market-rate housing.

SECTION 2. A public hearing was duly noticed for the Planning Commission meeting of October 20, 2016 by publication in the Beverly Press newspaper, the West Hollywood Independent Newspaper, required state and local agencies, and the City website and by announcement on City Channel 6 by October 6, 2015.

SECTION 3. The proposed text changes to the City's Zoning Code are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 of the CEQA Guidelines, which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. 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 proposed text amendments reaffirm and promote the long-term tenancy of dwelling units, as those units were intended and therefore will not have a significant effect on the environment.

SECTION 4. The Planning Commission of the City of West Hollywood hereby finds that Zone Text Amendment 2016-0003 is consistent with the Goals and Policies of the General Plan, including Goal LU-1, which states that the City should “maintain an urban form and land use pattern that enhances the quality of life and meets the community’s vision for the future. Specifically, it complies with Policy LU-1.4, which states that the City should continue to maintain regulations that “encourage preservation of existing housing and development of new housing that accommodates households that are diverse in size, type and income.”

SECTION 5. Based on the foregoing, the Planning Commission of the City of West Hollywood hereby recommends approval to the City Council of Zoning Text Amendment 2016-0003, which is attached hereto as Attachment A, to further clarify the scope of the City’s prohibition against the use of dwelling units for purposes other than bona fide residential occupancy.

**PASSED, APPROVED AND ADOPTED** by the Planning Commission of the City of West Hollywood at a regular meeting held this 20<sup>th</sup> day of October, 2016 by the following vote:

AYES:           Commissioner:

NOES:           Commissioner:

ABSENT:       Commissioner:

ABSTAIN:      Commissioner:

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DAVID AGHAEI, CHAIRPERSON

ATTEST:

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BIANCA SIEGL, PLANNING MANAGER  
LONG RANGE AND MOBILITY PLANNING

*Decisions of the Planning Commission are subject to appeal in accordance with the procedures set forth in West Hollywood Municipal Code Chapter 19.76. Any action to challenge the final decision of the City of West Hollywood made as a result of the public hearing on this application must be filed within the time limits set forth in Code of Civil Procedure Section §1094.6.*

## Attachment A

(New text indicated with underlining, deleted text with strikethrough.)

Section 1. A new land use is added to the alphabetical list of land uses in Table 2-2 of Section 19.06.030 in Chapter 19.06 of Title 19 of the West Hollywood Municipal Code to read as follows:

LAND USE <sup>2</sup>	PERMIT REQUIRED BY ZONE				Specific Use Regulations
	R1	R2	R3	R4	
<u>Corporate Housing</u>	--	--	--	--	<u>19.36.100(B)</u> <u>19.48.060</u>

Section 2. A new land use is added to the alphabetical list of uses in Table 2-5 of Section 19.10.030 in Chapter 19.10 of Title 19 of the West Hollywood Municipal Code to read as follows:

LAND USE <sup>2</sup>	PERMIT REQUIRED BY ZONE						Specific Use Regulations
	CN	CC/SSP	CA	CR	PDCSP	PF <sup>3</sup>	
<u>Corporate Housing</u>	--	--	--	--	--	--	<u>19.36.100(B)</u> <u>19.48.060</u>

Section 3. The following new definitions are added in alphabetical order to the alphabetical list of definitions in Section 19.90.020 of Chapter 19.90 of Title 19 of the West Hollywood Municipal Code to read as follows:

**Corporate housing.** The temporary occupancy of any dwelling unit, by any person (1) who does not intend to use it as their domicile, or who has not entered into a written rental or lease agreement to occupy the unit for at least one year; and (2) for which the dwelling unit is owned, leased, guaranteed or made available by a business entity for occupancy by the entity’s officers, employees, consultants, vendors, or contractors.

Section 4. Paragraph (B) of Section 19.36.100 of Chapter 19.36 of Title 19 of the West Hollywood Municipal Code is amended to add the following new subsection 10 to read as follows:

10. Use as a Dwelling. The CC&Rs and other management documents shall contain a provision as follows: “Dwelling units within the property are intended to be used as domiciles for long-term occupancy, as reflected by the definition of ‘Dwelling Unit’ in Section 19.90.020. As such, no dwelling unit shall be used as corporate housing or short-term vacation rental.”



Section 5. Section 19.48.060 of Chapter 19.48 of Title 19 of the West Hollywood Municipal Code is amended to read as follows:

**19.48.060 Conditions of Approval.**

A. In approving a development permit for a project containing dwelling units, the review authority shall ensure that the permit contains the following condition:

1. Dwelling units within the City are intended for long-term occupancy, as reflected by the definition of Dwelling Unit in Section 19.90.020. As such, no part of any dwelling unit in the project may be used as corporate housing or short-term vacation rental. This condition is independent of the City's ban on short-term rentals and corporate housing, which also applies to all dwelling units in the City.

B. In approving a development permit, the review authority may require alterations to proposed plans, and may impose reasonable and necessary specific design, locational, and operational conditions relating to both on- and off-site improvements, which are intended to ensure that:

1. A. The site is physically adequate for the type, density, and intensity of development being proposed (e.g., number of employees) including provision of services (e.g., sanitation and water), public access, and the absence of physical constraints;

2. B. The design, location, size, and operating characteristics of the proposed development are compatible with the existing and future land uses on-site and in the vicinity of the subject property;

3. C. On- or off-site improvements (e.g., fire hydrants, streets, street lighting, traffic-control devices, etc.) are provided as reasonable and necessary to carry out the purpose and requirements of the applicable zoning district;

4. D. The design of the proposed development maintains the scale, bulk and mass of adjacent properties within the existing neighborhood, and does not impair the integrity and character of the zoning district in which it is to be located;

5. E. The proposed development incorporates new landscaping that complements the existing landscape and together provides opportunities for landscaped open space which contribute to a high quality visual image; and

6. ~~F.~~ The establishment, maintenance, or operation of the proposed development at the location proposed does not endanger, jeopardize, or otherwise constitute a menace to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

DRAFT

SUBJECT: REQUEST FOR ORDINANCE RESTRICTING NEW  
RESIDENTIAL DEVELOPMENTS TO NON-TRANSIENT  
USE

INITIATED BY: COUNCILMEMBER JOHN HEILMAN

PREPARED BY: CITY ATTORNEY  
(Michael Jenkins, City Attorney)

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STATEMENT ON THE SUBJECT:

The City Council will consider directing the City Attorney to prepare an ordinance amending the Zoning Code to prohibit the use of residential dwelling units for corporate housing and other similar uses involving the unaccompanied overnight lodging of individuals other than the owner (in the case of a condominium or house) or lessee (in the case of an apartment).

RECOMMENDATION:

Direct the City Attorney to prepare an ordinance amending the Zoning Code to prohibit the use of residential dwelling units for corporate housing and other similar uses involving the unaccompanied overnight lodging of individuals other than the owner (in the case of a condominium or house) or lessee (in the case of an apartment).

BACKGROUND & ANALYSIS:

On July 20, 2015, the City Council introduced on first reading an ordinance amending the Zoning Code to clarify that dwelling units may not be used as short-term vacation rentals by expressly prohibiting the rental of all or a portion of a dwelling unit for thirty (30) days or less to a transient and advertising a dwelling unit as a short-term rental. Once adopted, the City's short-term rental ban will apply to existing residential units in the City of West Hollywood as well as any proposed new units.

The ordinance banning short term rentals has some limitations that would be addressed by the proposed ordinance. First, the short-term rental ban specifically prohibits rentals for thirty (30) days or less, which addresses the most prevalent kinds of vacation rentals, but does not address longer-term vacation rentals or transient corporate housing, in which a corporate employee or guest

may be provided temporary housing or lodging. Although turnover in such circumstances is typically less frequent than that involved in short-term vacation rentals, the high turnover remains disruptive to the stability of residential communities. Further, when residential units are used for commercial activity such as vacation and corporate rentals rather than the purpose for which they were constructed, the supply of affordable and market rate housing in the City is diminished and the ability of the City to achieve its housing goals is compromised. Given the documented shortage of housing statewide, the use of housing for temporary stays is inconsistent with both State and City housing policy.

The ordinance would amend Sections 19.36.100(B) (Residential Projects – Conditions, Covenants, and Restrictions) and 19.48.060 (Conditions of Approval) of the West Hollywood Municipal Code.

CONFORMANCE WITH VISION 2020

This item is consistent with the City's *Primary Strategic Goal* to **Maintain the City's unique urban balance with emphasis on residential neighborhood livability** and is consistent with the On-going Strategic Programs of:

**Promote Economic Development while Maintaining Business Vitality & Diversity and Adaptability to Future Change**

General Plan Goals:

**Goal ED 1.2:** Seek a balance between visitor-serving and local-serving commercial activity.

EVALUATION:

N/A

ENVIRONMENTAL SUSTAINABILITY & HEALTH ANALYSIS:

N/A

OFFICE OF PRIMARY RESPONSIBILITY:

City Attorney

FISCAL IMPACT:

None at this time.

ATTACHMENT:

None.

Original City Council Direction