

Short Term Rentals and Zoning

A bedrock principle of this community and our local government is the preservation of residential neighborhoods and the protection of people living in residential neighborhoods from the negative impacts of incompatible uses. Zoning is the primary means we have used to put that principle into practice.

I'd like to illustrate this with three examples from the zoning code: the home business provision, the 1986 ballot measure known as Measure C, and the original transient use ordinance itself.

1. The **home business provision** allows people to conduct a business from their home but only within strict limits designed to protect residential neighborhoods from the impacts of commercial activity, including customers, traffic, noise and advertising. For all practical purposes, this provision prohibits any business that is at all noticeable, that gives "any hint to the surrounding neighborhood" of non-residential use. STRs are not home businesses, by definition, they don't qualify, because they do have those impacts. Without a separate enabling ordinance, they would be prohibited under this section. (MC 23.16.020)

2. **Measure C** was adopted by the voters in 1986 to prevent the encroachment of motel use into residential neighborhoods. The measure's Statement of Intent reads: "It is the intention of the ordinance codified in this section to preserve the essential residential character of the city, and the residential appearance of the city, and to prevent the adverse impacts of such from developments in the R-3-M districts." A key provision of the ordinance is that motel and hotel use is restricted to the R-3-M district. (Chapter 23.52) If STRs were deemed to be a form of motel use they would be prohibited, except in the R-3-M district.

3. The **original transient use ordinance** enacted in 1993 flat-out prohibited "transient use of residential property," which is defined in the ordinance as a "commercial use." (MC 23.64.350) But then, seven years ago, this ordinance which was first enacted as a complete prohibition of transient use was transformed into an enabling ordinance by inserting one clause: "except . . . when such use is permitted by a transient use license . . ." A new chapter was added to Title 7, the Business Licenses title of the Code, which also regulates massage parlors, pool halls, head shops and dance halls. So instead of using zoning to prevent the negative impacts of commercial use on residential neighborhoods, as in the home business provision, Measure C, and the original transient use ordinance, we decided to permit the use but then try to limit, minimize, and mitigate each of its various impacts through specific licensing conditions, some of them the subject of our current discussion.

This approach has been proven to be an inefficient, costly and ultimately ineffective way of dealing with the problem of incompatible uses, and it has imposed on neighbors the additional burden of responsibility for monitoring compliance with the regulations and for reporting violations.

The question of whether allowing STRs is the right thing to do is not just a theoretical one. We've conducted a seven-year experiment. And based on the experiences of residents as communicated in a great many emails, letters, letters to the editor and public comments, short term rentals have proven to have just the kinds of negative impacts our zoning regulations are meant to prevent, and which we have been unable to adequately mitigate through licensing regulations.