

NOTE RELATING TO THE INITIAL APPROVAL OF BARCELONA'S PLA ESPECIAL URBANÍSTIC D'ALLOTJAMENTS TURÍSTICS (PEUAT)

On January 29, 2021, the Barcelona City Council Government Commission initially approved the Pla Especial Urbanístic d'Allotjaments Turístics (PEUAT). The announcement was published on February 1, 2021 in the Butlletí Oficial de la Província de Barcelona (BOPB), and the intention of the municipal government is to obtain its final approval in summer.

The documents that are the object of initial approval are on public display for a period of three months, during which those interested may present the allegations and documentation they deem pertinent.

The fundamental objective of the new Plan, like the one still in force in 2017, is to regulate the urban conditions for the establishment of tourist establishments in the city of Barcelona (except Collserola, Montjuic Park and Port).

In this sense, the new PEUAT has a structure and system very similar to those of the current PEUAT (general requirements for radial distance, linear distance, street sections, non-existence of housing on 07/01/2015, entire building, 8 meters wide street and requirements for each specific area, specific treatment area and main axes), although, as will be seen below, it incorporates new features to take into account.

The Plan is reviewed in compliance with the provisions of the second final provision of the current PEUAT, which provides for the assessment of its application and eventual review 4 years after its entry into force.

In addition, the annulment by the Courts of several articles of the PEUAT of 2017 has also highlighted the need to review the Plan³. As a result of these declarations of nullity, the following determinations have been modified or suppressed:

In the first place, for existing establishments in a regime of disagreement with the planning determinations, the new PEUAT is limited to refer to the regime of disagreement of article 108 of the text refós de la Llei d'Urbanisme, instead of establishing its own regime (such as towards PEUAT 2017).

³ It should be reminded that, in 2019, the High Court of Justice of Catalonia declared the PEUAT null and void due to insufficient economic-financial analysis, a decision that is not final since the Court is resolving an autonomic cassation appeal filed by the Barcelona City Council. Therefore, this review (with the suspension of licenses that it entails) also constitutes a preventive measure to avoid the effects of a possible definitive and firm nullity of the PEUAT 2017.

Likewise, the obligation to reduce the number of places by 20% when major consolidation, reform or major rehabilitation works are carried out.

Secondly, the use of registration in the Land Registry has been abolished as the sole means of proving the preexistence of the use of a dwelling on a certain date, as this is not the purpose for which the Land Registry was created, being admitted in the new PEUAT any other valid means of proof.

Thirdly, the First Additional Provision of PEUAT 2017, relating to the obligation to group houses for tourist use (hereinafter, HUT) in Ciutat Vella, with the obligation to cease the activity in case of not doing so, has been abolished when said determination contrary to the regime of extinction of qualifying titles.

Fourth, due to its complexity and inadequacy, the mechanism that had been designed to allow the implantation of small-format establishments on streets between 6 and 8 meters wide is eliminated.

Fifth, the need to request and obtain an authorization to modify the use of the building to the property where the implementation of new HUTs (community of owners or vertical property) is foreseen has been eliminated, since it was a requirement of private law, unrelated to the Plan.

Finally, a new, more extensive and better justified economic study has been included as an annex to the Plan, given the insufficient documentation of the economic and financial evaluation of the previous Plan.

Regarding the zoning proposed by the new Plan, in general, the one established in the PEUAT 2017 is maintained, with the exception of the new ZE-4D Estació de Sants, which is configured as a transformation area. For this subzone, the PEUAT maintains the provisions made by the *Modificació del Pla general metropolità a l'Estació de Sants i el seu entorn*, definitively approved on October 20, 2003, regarding the possibility of expanding the existing hotel with a maximum of 4,000 m².

Another notable novelty of the Plan is that tourist rooms are put to a stop, given that the establishment of shared homes is not allowed. These are defined, in accordance with the sectorial legislation on tourism, as that tourist accommodation that is the main home and effective residence of the owner and that is shared as an accommodation service with third parties in exchange for economic consideration and for a stay of season, that is, for a continuous period of time equal to or less than 31 days.

Consequently, longer-term room rentals are allowed, that are usually made for students or temporary workers, which are not considered tourist stays.

Likewise, a new regulation is established for student residences that are located in lots that are not qualified as equipment, that is, those that are on zone land. The common conditions for all types of accommodation are maintained: no substitution of housing use, location in an exclusive building, street width of 8 m and maximum capacity of 350 places. In addition, the proposal does not allow the opening of new residences in the decreasing (ZE-1) and maintenance (ZE-2) areas, except if a tourist accommodation or youth hostel is converted. Therefore, only the new implantation and expansion to ZE-3 and ZE-4 is allowed, with a density limitation by radial distance between residences.

In relation to the regulation of HUTs, the new Plan foresees management parameters very similar to those of 2017, with some precision. Housing for tourist use may not be located in any building in which there was an entity intended for housing on July 1, 2015. In addition, the Plan's regulations clarify that the implementation of HUT in officially protected housing is not allowed, in line with the Llei del Dret a l'Habitatge. Neither can HUT be located on the ground floor, nor in a single-family home. Regarding density, the maximum HUT within the scope of the Plan is maintained and a limitation is established in relation to the density of block resulting from legally enabled HUTs, which must be less than 1,48% or alternatively until reaching a maximum 10 HUTs to complete non-dwelling uses in an entire building.

In ZE-1, defined as a decrease zone, new HUT authorizations are not allowed; and in ZE-2, determined as a maintenance area, it is proposed to maintain the existing HUT authorizations. However, when there is a decrease in the Census in these specific areas or in the ZE-3 itself, it will be allowed to open a new establishment in the latter, as long as the maximum limit of portable authorizations is not exceeded. Finally, in ZE-4 the establishment of houses for tourist use is not allowed in any of its sub-zones.

On the other hand, in the north sector of 22@, the number of places in existing establishments cannot be expanded, while, as it is defined as a maintenance area, the implementation of new establishments is foreseen provided that the conditions imposed on the Plan are accomplished. The 2017 PEUAT delimited this sector as a specific treatment area and allowed a balanced growth of tourist places to preserve the productive vocation of the area and promote the implementation of @ activities. However, in the last years hotel rooms have grown considerably, and in addition the new 22@ planning foresees making housing grow, and promoting the mixture of uses and daily life. For all these reasons, the northern sector of 22@ is now considered a maintenance area.

It should also be mentioned that hotel establishments are expressly recognized - key 10, hotel endowment zone (which the current Plan had omitted). According to the first additional provision of the PEUAT approved initially, the forecasts made by the MPGM regarding the definition and regulation of the hotel endowment area and determination of the land that affect it, within the scope of the municipality of Barcelona (Pla d'Hotels), definitively approved on October 6, 1989. The eventual disappearance of hotel establishments located on land classified with key 10 will cause a decrease in activity in the census and will imply a decrease in the maximum density of beds and establishments, with regardless of the specific area in which they are located. These losses will not be part of the growth capacity foreseen in this plan.

On the other hand, the approval of a new operating manual is expected, and it should facilitate the application of the determinations of the new Plan, providing for the temporary application of the 2017 PEUAT operating manual, in everything that does not contradict the new planning.

Finally, the establishments and places to be considered at the time the Pla Especial comes into force to apply the determinations that are established are those that result from the Plan's census. As an annex to the census, the initial approval incorporates a list of applications in process before July 1, 2015, which will be resolved in accordance with the determinations of the previous planning, as well as a list of applications in process that must be resolved in accordance with the determinations of the 2017 PEUAT. Issues that, obviously, will be necessary to review if someone is the owner of an establishment and/or has any authorization in process.

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Albert Llop Martí
Pareja i Associats, advocats