



Council Agenda Report

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

Prepared by: Joyce Parker-Bozylinski, Contract Planner
Tyler Eaton, Senior Planner

Reviewed by: Richard Mollica, Planning Director

Approved by: Steve McClary, City Manager

Date prepared: August 24, 2023 Meeting date: September 11, 2023

Subject: An amendment to Title 17 (Zoning) of the Malibu Municipal Code and the Local Coastal Program to Update Regulations Related to Accessory Dwelling Units

RECOMMENDED ACTION: 1) Adopt Resolution No. 23-43 (Exhibit 1) amending the Land Use Plan (LUP) of the Local Coastal Program (LCP); 2) After the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 510 (Exhibit 2), approving LCP Amendment (LCPA) No. 18-002, an amendment to Title 17 (Zoning) of the Malibu Municipal Code (MMC) related to definitions, guest homes and changing the term second units to accessory dwelling units (ADUs) and to the LCP to update ADU regulations and determining the amendments are exempt from the California Environmental Quality Act (CEQA); 3) After the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 511 (Exhibit 3), approving Zoning Text Amendment No. 18-004 an amendment to title 17 (Zoning) of the MMC to update ADU regulations and determining the amendments are exempt from CEQA; 4) Direct staff to schedule second reading and adoption of Ordinance No. 510 and Ordinance No. 511 for the September 25, 2023 City Council Regular meeting.

FISCAL IMPACT: Funding for this project is included in the Adopted Budget for Fiscal Year 2022-23.

WORK PLAN: This item was included as item #4a in the Adopted Work Plan for FY 2022-23. Staff continue to work on ongoing projects and normal business while the FY 2023-24 Work Plan is finalized.

DISCUSSION: The proposed amendments will update the City's LCP and Malibu Municipal Code (MMC) regulations for second units consistent with changes in State law. A second unit is another term for an accessory dwelling unit (ADU). The proposed amendments do not allow both second units and ADUs. The term "second unit" will be changed to "ADU" throughout both the LCP and MMC as provided in the draft amendments.

Background

The City Council initiated LCPA No. 18-002 and ZTA No. 18-004 in June 2018. A variety of factors, including the Woolsey Fire and COVID-19 meeting restrictions, delayed the Planning Commission's ability to consider the amendments in a timely manner. The Planning Commission held three hearings on the ADU ordinance including a Special Planning Commission hearing on March 14, 2023. At that hearing the Planning Commission unanimously recommended approval of the amendments with modifications. A complete history of the Planning Commission and City Council hearings on the ADU ordinance can be found in the recitals in the Exhibits (1, 2, and 3).

During the Commission's deliberations on March 14th, straw votes were taken over the course of the deliberations and some of the votes were not unanimous, including provisions requiring two means of access and a requirement that property owners be required to report the ADU rental rates as opposed to being asked to report the rates to the City. The Planning Commission recommendations are further discussed below.

In preparation for the City Council hearing, the City Attorney's office provided recommended changes to the ADU regulations in the MMC. These changes were intended to ensure that the language in the ordinance matches the language in the State ADU statute. These recommended changes resulted in a reorganization of the ordinance and the revision of some sections to ensure the proposed language was narrowly focused on the language used in the statute. These recommended changes did not result in substantial changes from what the Planning Commission approved.

Proposed ADU Ordinance

The proposed language found in Resolution 23-43 (Exhibit 1), Ordinance No. 510 (Exhibit 2) and Ordinance No. 511 (Exhibit 3) will update the City's regulations for second units. Exhibits 4 and 5 are presented in underline/strikethrough format to highlight added and ~~deleted~~ language compared to existing codes.

In implementing this ADU ordinance the City is seeking to balance the issues relevant to development in the Coastal Zone with the policies put forward by State ADU law. With the proposed amendments, the MMC will include all required State standards and provide for ministerial processing of ADUs consistent with State law. Introductory

language in the MMC makes it clear since ADU law does not supersede the Coastal Act, every new ADU will first be subject to analysis for compliance with the LCP before it is reviewed for compliance with the MMC. The proposed LCPA would require attached, detached, and converted (ADUs created from an existing accessory building) to obtain an Administrative Coastal Development Permit (ACDP) and meet the standards set forth in the LCP.

Review and Processing

Second units are currently allowed with an ACDP. The proposed permitting process for ADUs will be the same as for second units under the current code. That process includes requirements for public noticing, reporting Director approvals to the Planning Commission where, by majority vote, the Commission can require a full Coastal Development Permit (CDP) and the ability for the public to appeal the decision of the Director or Planning Commission, if a full CDP is required, to the City Council and in the appeal zone to the California Coastal Commission (CCC).

If a project does not meet the definition of development, then the project would be processed per the MMC. Consistent with State law, there are two options for ADU processing in the MMC (refer to the new MMC Chapter 17.44 in Exhibit 3). First, if a project is one of four specific, limited types, it would be processed with a building permit only. Second, if the ADU does not meet one of those four types, then the ADU would be processed with an Administrative Plan Review (APR). Some ADUs, even if they are not considered development in the LCP, may require upgrades to the Onsite Wastewater Treatment System (OWTS), which will require a CDP (LIP Section 13.29). In these cases, the APR will be processed separately from the OWTS only CDP.

Under the proposed ordinance and consistent with California Coastal Commission guidance, ADUs created from a habitable space inside an existing single-family dwelling such as a bedroom (Junior ADU) or inside an existing single-family residence, otherwise known as Internal ADUs are not considered development for purposes of the LCP and as such, will be processed under the MMC with an Administrative Plan Review (APR) which is a Director approved ministerial project. ADUs proposed in a non-habitable space such as a garage would require an ACDP.

There are no noticing-requirements for APRs. APRs can be sent back to the director for a "Request for Review." This is just a second look by the Director. Pursuant to MMC 17.04.220, an appeal to the Planning Commission cannot be made unless a Site Plan Review for height or reduction of setbacks is proposed with the project. In the case of an ADU proposed for an existing single-family house, height and setbacks would remain the same.

State law allows both a Junior ADU (JADU) and an ADU to be built on the same property. While there could be an increase in cases where someone wants both a JADU and an ADU, staff has no way of determining which properties might choose to build both. As required by State law, JADUs are subject to an owner-occupancy requirement. The property owner would need to reside in either the JADU or the main residence in order to have a JADU. An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement. Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement.

Short-Term Rentals (STRs)

ADUs permitted ministerially under MMC Section 17.44.060(A) must be rented for terms longer than 30 days¹. For ADUs not processed pursuant to MMC Section 17.44.060(A), State ADU law provides that cities may require that an ADU be used for rentals of terms longer than 30 days. The proposed LCPA and MMC prohibit STRs in ADUs in all instances. While the City's STR ordinance, considered but not approved by the CCC, did not prohibit STRs in ADUs, the Planning Commission felt that since ADU laws were intended to increase the amount of long-term housing, STRs should be prohibited in ADUs.

ADUs processed under the MMC and LCP would be required to record a deed restriction. Currently, staff has been adding a deed restriction when a project proposes a second unit, restricting a property to only one second unit meeting the definition of LIP Section 2.1. The LCPA and MMC proposes additional deed restrictions as part of the ADU Ordinance that will require the property to comply with restrictions such as restrictions against sold separate from the primary dwelling, restrictions against renting ADUs for less than 30 days, and restrictions against increasing the approved size of an ADU without City approval among others.

Relationship to Housing Element and Regional Housing Needs Assessment (RHNA)

The Housing and Community Development (HCD) direction on updating housing elements as it relates to ADUs indicates housing elements must include a description of zoning available to permit ADUs, including development standards and analysis of potential constraints on the development of ADUs. The element must include programs as appropriate to address identified constraints. Cities can use ADUs to meet up to 15 percent of their RHNA. As part of the Housing Element, a jurisdiction must include an analysis of the anticipated affordability of ADUs in order to determine which RHNA income category (very low, low, moderate, and above moderate) they should be counted toward.

¹ Gov. Code, §65852.2, subds. (a)(6) and (e)(4)

The ADU Ordinance includes a requirement that property owners report the actual rent charged for an ADU to assist the City in identifying sites to meet RHNA. Language in the draft ordinance “asked” the property owner to provide the rental information but a majority of the Planning Commissioners voted to “require” the property owner to report the information. In a recent discussion with HCD, they indicated they would accept the Southern California Association of Governments (SCAG) formula for determining ADU affordability for the City’s RHNA.

As part of the 6th Cycle (2021-2029) Housing Element process, SCAG conducted an affordability analysis² for determining affordability in order to provide local governments in the SCAG region with assumptions for ADU affordability that can be used to assign ADUs to income categories. Efforts were made to reflect the geographic distribution, size, and other characteristics of ADUs across the various counties/subregions. Los Angeles County is separated into two categories in order to better account for the disparities in housing costs between coastal and inland jurisdictions. The City’s 6th Cycle Housing Element is currently being updated in response to HCD comments and will rely upon the SCAG formula to determine affordability.

Development Standards

The proposed development standards for ADUs in the MMC and LCP are summarized below.

Unit Size

For ADUs processed under the MMC, state law sets a minimum size of 850 square feet for a studio or one-bedroom and 1,000 square feet for a two or more bedroom unit. Those minimum structure sizes are included in the MMC to ensure consistency with the State ADU law.

In the LCP, the Planning Commission recommended a minimum of 400 square feet and a maximum of 1,200 square feet for an ADU. Establishing a maximum size of 1,200 square feet would be consistent with the square footage allowed for temporary housing for fire rebuilds. After the Woolsey Fire, the Council adopted Ordinance No. 445 which allowed fire rebuild applicants to place temporary housing on their properties not to exceed 1,200 square feet³. That decision was made to ensure a trailer or other prefabricated structures could be placed on the property to accommodate the residents comfortably until they were able to rebuild their homes. Some residents invested in prefabricated temporary homes that could potentially be permitted as ADUs after the rebuild of their homes. Currently second units are limited to 900 square feet in size.

Height

² https://scag.ca.gov/sites/main/files/file-attachments/adu_affordability_analysis_120120v2.pdf?1606868527

³ The temporary housing regulations were placed in MMC Section 17.40,040.A.18.

The proposed allowed height for an ADU in the MMC is 16 feet above existing or finished grade, whichever results in the lower building height. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed dwelling located within one-half mile from a major transit stop or is a detached ADU created on a lot with an existing or proposed multifamily dwelling. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower.

For the LCP, the Planning Commission recommended a height limit of 16 feet above grade as measured from existing or finished grade, whichever results in the lower building height. The Director may allow heights up to 24 feet with a Site Plan Review. When a legally established accessory structure is demolished and replaced with a new structure for the purposes of creating an ADU, the replacement structure may not exceed 18 feet in height. The current allowed height for a second unit is 18 feet and up to 24 feet for a flat roof and 28 feet for a pitched roof with a Site Plan Review.

The Commission also agreed to make the existing language in the LCP limiting a second story to 2/3rds of the first story consistent with the language in the MMC. Since the language in the MMC is the most restrictive and is currently used by staff when determining 2/3rds, staff revised the 2/3rds language in the LCP to be consistent with the MMC language. The language in both documents would now indicate that the "second floor area plus the area of vaulted ceilings above eighteen (18) feet in height shall not exceed two-thirds the first-floor area...". Having consistent language in both documents will avoid any questions or confusion in the future. This revised language would apply to both ADUs and single-family dwellings.

Setbacks

Consistent with State law, in the MMC the proposed side and rear setback for ADUs is four (4) feet. In the ordinance considered by the Planning Commission a five (5) foot side and rear setbacks were required on properties without two means of access to a highway. The Planning Commission requested that staff add a cross reference between the two sections to avoid confusion; however, the section relative to having two means of access was deleted consistent with Planning Commission direction to utilize street width as the criteria to determine whether a property can have an ADU or increased development standards were required so a cross reference was no longer needed. In the LCP, detached, attached, and converted ADUs must meet the current setback requirements for a second unit.

Parking

The parking requirement for an ADU is one space which is consistent with the existing second unit regulations. This parking requirement would be the same in both the MMC

and LIP. Consistent with State law, parking is not required for JADUs which would be processed under the MMC.

At their March 7, 2022 meeting, based on concern about the cumulative impact of allowing ADUs, the Planning Commission had requested additional studies and referrals. On August 22, 2022, the City Council considered the request and in response to the Commission's concerns directed staff to minimize changes to the LCP by utilizing most of the existing second unit regulations, which currently protect coastal resources and public access.

In order to be consistent with State law, the proposed MMC modifications do not require replacement parking for a converted garage and also include other exceptions to provide parking. One such parking exemption is that no parking is required when an ADU is located within 0.5-mile walking distance of public transit. These exceptions have been removed from the LCPA per Planning Commission recommendation. ADUs processed under the LCP will require replacement parking.

After staff updated the ordinance to make parking and other development standards consistent with existing second unit regulations, Coastal Commission staff reviewed the revised draft and indicated that the City should, where appropriate, try to harmonize the LIP changes with State ADU law, not just for parking requirements but other development standards as well.

The Planning Commission felt that since the City was entirely within in a Very High Fire Hazard Severity Zone (VHFHSZ) there should be no exemptions or exceptions for providing on-site parking or reducing other development standards.

Road Width - VHFHSZ

The ordinance reviewed by the Planning Commission included language that required an increase in development standards, but did not prohibit an ADU, on lots that did not have two means of access with at least 24 feet in width to a highway. This language was similar to language in the Los Angeles County North Area Plan but in that code, ADUs were prohibited on properties that did not have two means of access with 24 feet in width to a highway. This same language is not included in the Santa Monica Mountains LCP which covers the County area directly abutting the City in the coastal zone. The Santa Monica Mountains LCP uses different standards for allowing ADUs such as distance from Pacific Coast Highway and the steepness of slopes on a property. Vehicular access must be from a street with a right of way of at least 60 feet.

The majority of the Planning Commission felt a better approach to address fire safety would be to follow existing Los Angeles County Fire Department requirements which require a 20-foot-wide width for roads serving two dwelling units.

ADUs on Multifamily Properties

The proposed LCPA would not allow ADUs located inside multifamily dwellings. An ADU must have its own separate entrance. The proposed LCPA also prohibits ADUs attached to a multifamily structure but allows detached ADUs with an ACDP. The MMC has similar provisions as detached ADUs are allowed in the same manner as a detached ADU on a property with a single-family dwelling but ADUs, including a JADU, are not allowed inside a multifamily dwelling. ADUs are allowed in the non-habitable portions of a multifamily building such as a garage or storage area. Since increasing the number of dwelling units on existing multifamily properties in the City, especially if those units removed existing parking, would have a negative impact to both on-site wastewater systems and available parking, the proposed LCPA would not allow conversion of non-habitable portions of a building to ADUs.

ENVIRONMENTAL REVIEW: Pursuant to Public Resources Code Section 21080.9, California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the CCC before it takes effect. LIP Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of the exempt activity, they are subject to the same CEQA exemption.

In addition, the project is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 21080.17, which states that the CEQA does not apply to the adoption of local ordinances regulating the construction of second units and by CEQA Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones.

Furthermore, the Planning Director has analyzed the proposed amendments. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Director determined that the proposed amendments are required by State law and will not result in changes from existing development standards, such as density limits and environmental resource protection standards; consequently, there is no possibility the

amendment will have a significant effect on the environment and accordingly, and the exemption set forth in Section 15061(b)(3) applies.

PUBLIC NOTICE: On August 3, 2023, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to all interested parties (Exhibit 6).

SUMMARY: Staff recommends that the City Council adopt Resolution No. 23-43 and introduce Ordinance No. 510 and Ordinance No. 511 approving LCPA No. 18-002 and ZTA No. 18-004 approving regulations for accessory dwelling units.

Pursuant to State law⁴, the City must submit a copy of the adopted ordinance to HCD within 60 days after adoption. After the adoption of the ordinance, HCD may review and submit written findings to the City as to whether the ordinance complies with State ADU Law.

EXHIBITS:

1. Resolution No. 23-43
2. Ordinance No. 510
3. Ordinance No. 511
4. LCP Amendment Redline
5. ZTA Redline
6. Public Hearing Notice

⁴ Gov. Code, § 65852.2, subd. (h)(1)

RESOLUTION NO. 23-43

A RESOLUTION OF THE CITY OF MALIBU DETERMINING LOCAL COASTAL PROGRAM AMENDMENT NO. 18-002 IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND AMENDING CHAPTER 3 (MARINE AND LAND RESOURCES) AND CHAPTER 5 (NEW DEVELOPMENT) OF THE LAND USE PLAN PERTAINING TO ACCESSORY DWELLING UNITS

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

SECTION 1. Recitals.

A. On June 11, 2018, the City Council adopted Resolution No. 18-28 to: 1) initiate Local Coastal Program (LCP) Amendment No. 18-002 and Zoning Text Amendment (ZTA) No. 18-004, to update accessory dwelling unit regulations consistent with State law, and 2) direct the Planning Commission to schedule a public hearing regarding the ZTA and provide a recommendation to the Council whether to approve, modify, or reject the amendment.

B. On July 17, 2018, the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES) met to discuss the proposed amendments to the MMC and LCP and recommended that the City's existing second unit regulations be updated consistent with Accessory Dwelling Unit State law.

C. On August 9, 2018, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

D. On August 30, 2018, a Notice of Availability of LCPA Documents was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

E. On September 4, 2018, the Planning Commission held a duly noticed public hearing to discuss new accessory dwelling unit (ADU) laws. The Planning Commission provided direction to staff and requested additional information. The Planning Commission also found that ADUs may provide units that can be utilized to meet the City's Regional Housing Needs Allocation (RHNA) and recommended that short-term rentals be prohibited in accessory dwelling units.

F. Between October 2018 and February 2020, the proposed amendments were noticed to be considered by the Planning Commission, however, the hearings were rescheduled.

G. On March 16, 2020, due to the COVID-19 pandemic, all public hearings scheduled for the March 16, 2020 Regular Planning Commission were continued to the April 6, 2020 Regular Planning Commission meeting.

H. On April 6, 2020, the Planning Commission continued the public hearing to a date uncertain.

I. On May 20, 2021, the Planning Commission held a duly noticed public hearing on the proposed ADU amendments. The Planning Commission provided direction to staff and requested additional information.

J. On December 6, 2021, the Planning Commission continued the public hearing to the January 18, 2022 Regular Planning Commission meeting.

K. On January 18, 2022, the Planning Commission continued the public hearing to the March 7, 2022 Regular Planning Commission meeting.

L. On March 7, 2022, the Planning Commission continued the public hearing to a date uncertain. The Planning Commission provided direction to staff and requested additional studies and referrals.

M. On August 22, 2022, the City Council discussed the additional studies and referrals requested by the Planning Commission and directed staff to 1) minimize changes to the Local Coastal Program by utilizing most of the existing second unit regulations, which currently protect coastal resources and public access, to revise the proposed ADU ordinance, and 2) refer the item back to the Planning Commission without the requested studies or referrals since they wouldn't be needed at this time if the City utilizes current second unit regulations in the ADU ordinance.

N. On March 6, 2023, the Planning Commission continued the public hearing to a March 14, 2023, Special Planning Commission meeting.

O. On March 14, 2023, the Planning Commission held a duly noticed public hearing on the proposed ADU amendments on LCPA 18-002 and ZTA No.18-004, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and recommended approval of the amendments with some modifications.

P. On August 3, 2023, a Notice of City Council Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

Q. On August 28, 2023, before consideration of the item, the public hearing was continued to September 11, 2023.

R. On September 11, 2023, the City Council held a duly noticed public hearing on the proposed ADU amendments on LCPA 18-002 and ZTA No.18-004, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. LCP Local Implementation Plan (LIP) Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of the exempt activity, they are subject to the same CEQA exemption.

In addition, the project is exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 21080.17, which states that the CEQA does not apply to the adoption of local ordinances regulating construction of second units and by CEQA Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones.

Furthermore, the City Council has analyzed the proposed amendments. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council determined that the proposed amendments are required by State law and will not result in changes from existing development standards, such as density limits and environmental resource protection standards; consequently, there is no possibility the amendment will have a significant effect on the environment and accordingly, and the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Local Coastal Program Findings.

Based on evidence contained within the record, including the agenda report for and the hearing on July 10, 2023, the City Council hereby finds that the proposed amendment meets the requirements of, and is in conformance with, the policies and requirements of Chapter 3 of the California Coastal Act.

A. The amendments to the LCP meet the requirements of, and are in conformance with the goals, objectives and purposes of the LCP. Updated development standards specific to accessory dwelling units ensure that development of affordable housing may occur in compliance with State housing element law, while maintaining standards to require that uses within the City's jurisdiction of the Coastal Zone advance the overarching goal of protecting coastal resources.

B. As a part of the LIP, the updated accessory dwelling unit development standards ensure that future development projects and land uses within specific zoning districts conform to applicable LCP policies, goals, and provisions, while taking into consideration the protection and enhancement of visual resources, public access, and recreation opportunities. Incorporating specific requirements for accessory dwelling units achieves LIP Sections 1.2(D) and (G) (guides

future growth and development), LIP Section 1.2(F) (promotes public health, safety, and general welfare), and LIP Section 1.2(K) (assures adequate public uses, facilities, and improvements).

SECTION 4. Local Coastal Program Amendment No. 12-002, Amendments to the Land Use Plan (LUP).

The City Council hereby amends the LUP as follows:

A. Policy 3.42 (c.) of LUP Chapter 3, is amended to read as follows. All other subsections of Policy 3.42 remain the same.

c. Limiting the maximum number of structures to one main residence, one accessory dwelling unit or one guest house, and accessory structures such as, stable, corral, pasture, workshop, gym, studio, pool cabana, office, detached garages, or tennis court, provided that such accessory structures are located within the approved development area and structures are clustered to minimize required fuel modification.

B. Paragraph 4 of A(2). Land Use Plan Provisions of LUP Chapter 5, is amended to read as follows. All other paragraphs remain the same.

The LUP policies address new residential development. The maximum number of structures allowed in a residential development is one main residence, one accessory dwelling unit or one guest house, and additional accessory structures provided that all such structures are located within the approved development area and clustered to minimize required fuel modification, landform alteration, and removal of native vegetation.

C. Policies 5.21, 5.22, 5.23, and 5.24 of LUP Chapter 5 are amended to read as follows:

5.21 The maximum number of structures permitted in a residential development shall be limited to one main residence, one accessory dwelling unit or guest house, and accessory structures such as stable, workshop, gym, studio, pool cabana, office, detached garages, or tennis court provided that all such structures are located within the approved development area and structures are clustered to minimize required fuel modification.

5.22 Accessory dwelling units shall be limited in size to a maximum of 1,200 square feet. Guest houses shall be limited in size to a maximum of 900 square feet. The maximum square footage shall include the total floor area of all enclosed space, including lofts, mezzanines, and storage areas. Garages that are part of an accessory dwelling unit or guest house, shall not exceed 400 square feet (two-car) maximum. The area of a garage provided as part of a guest house or accessory dwelling unit shall not be included in the 900 or 1,200 square foot limit, respectively.

5.23 One onsite enclosed or unenclosed parking space shall be required for the exclusive use of an accessory dwelling unit or guest house.

5.24 New development of an accessory dwelling unit or guest house or other accessory structure that includes plumbing facilities shall demonstrate that adequate private sewage disposal can be provided on the project site consistent with all of the policies of the LCP.

SECTION 5. Effective Date.

In accordance with California Government Code section 36937, this Ordinance shall become effective on the 30th day following its passage and adoption, except for the amendment to the Local Coastal Program. The LCPA is subject to certification by the California Coastal Commission and shall become effective after certification.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Resolution for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality or the remaining portions of this Resolution; it being hereby expressly declared and this Resolution, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phases be declared invalid or unconstitutional.

SECTION 7. Certification.

The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 11th day of September 2023.

BRUCE SILVERSTEIN, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

TREVOR RUSIN, City Attorney

ORDINANCE NO. 510

AN ORDINANCE OF THE CITY OF MALIBU APPROVING LOCAL COASTAL PROGRAM AMENDMENT 18-002, AN AMENDMENT TO TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE RELATED TO DEFINITIONS, GUEST HOMES AND CHANGING THE TERM SECOND UNITS TO ACCESSORY DWELLING UNITS AND TO THE LOCAL COASTAL PROGRAM TO UPDATE ACCESSORY DWELLING UNIT REGULATIONS AND DETERMINING THE AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

SECTION 1. Recitals.

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B. On July 17, 2018, the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES) met to discuss the proposed amendments to the MMC and LCP and recommended that the City's existing second unit regulations be updated consistent with Accessory Dwelling Unit State law.

C. On August 9, 2018, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

D. On August 30, 2018, a Notice of Availability of LCPA Documents was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

E. On September 4, 2018, the Planning Commission held a duly noticed public hearing to discuss new accessory dwelling unit (ADU) laws. The Planning Commission provided direction to staff and requested additional information. The Planning Commission also found that ADUs may provide units that can be utilized to meet the City's Regional Housing Needs Allocation (RHNA) and recommended that short-term rentals be prohibited in accessory dwelling units.

F. Between October 2018 and February 2020, the proposed amendments were noticed to be considered by the Planning Commission, however, the hearings were rescheduled.

G. On March 16, 2020, due to the COVID-19 pandemic, all public hearings scheduled for the March 16, 2020 Regular Planning Commission were continued to the April 6, 2020 Regular Planning Commission meeting.

H. On April 6, 2020, the Planning Commission continued the public hearing to a date uncertain.

I. On May 20, 2021, the Planning Commission held a duly noticed public hearing on the proposed ADU amendments. The Planning Commission provided direction to staff and requested additional information.

J. On December 6, 2021, the Planning Commission continued the public hearing to the January 18, 2022 Regular Planning Commission meeting.

K. On January 18, 2022, the Planning Commission continued the public hearing to the March 7, 2022 Regular Planning Commission meeting.

L. On March 7, 2022, the Planning Commission continued the public hearing to a date uncertain. The Planning Commission provided direction to staff and requested additional studies and referrals.

M. On August 22, 2022, the City Council discussed the additional studies and referrals requested by the Planning Commission and directed staff to 1) minimize changes to the Local Coastal Program by utilizing most of the existing second unit regulations, which currently protect coastal resources and public access, to revise the proposed ADU ordinance, and 2) refer the item back to the Planning Commission without the requested studies or referrals since they wouldn't be needed at this time if the City utilizes current second unit regulations in the ADU ordinance.

N. On March 6, 2023, the Planning Commission continued the public hearing to a March 14, 2023, Special Planning Commission meeting.

O. On March 14, 2023, the Planning Commission held a duly noticed public hearing on the proposed ADU amendments on LCPA 18-002 and ZTA No.18-004, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and recommended approval of the amendments with some modifications.

P. On August 3, 2023, a Notice of City Council Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

Q. On August 28, 2023, before consideration of the item, the public hearing was continued to September 11, 2023.

R. On September 11, 2023, the City Council held a duly noticed public hearing on the proposed ADU amendments on LCPA 18-002 and ZTA No.18-004, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. LCP Local Implementation Plan (LIP) Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of the exempt activity, they are subject to the same CEQA exemption.

In addition, the project is exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 21080.17, which states that the CEQA does not apply to the adoption of local ordinances regulating construction of second units and by CEQA Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones.

Furthermore, the City Council has analyzed the proposed amendments. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council determined that the proposed amendments are required by State law and will not result in changes from existing development standards, such as density limits and environmental resource protection standards; consequently, there is no possibility the amendment will have a significant effect on the environment and accordingly, and the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Local Coastal Program Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed amendment meets the requirements of, and is in conformance with, the policies and requirements of Chapter 3 of the California Coastal Act.

A. The amendments to the LCP meet the requirements of, and are in conformance with the goals, objectives and purposes of the LCP. Updated development standards specific to accessory dwelling units ensure that development of affordable housing may occur in compliance with State housing element law, while maintaining standards to require that uses within the City's jurisdiction of the Coastal Zone advance the overarching goal of protecting coastal resources.

B. As a part of the LIP, the updated accessory dwelling unit development standards ensure that future development projects and land uses within specific zoning districts conform to applicable LCP policies, goals, and provisions, while taking into consideration the protection and enhancement of visual resources, public access, and recreation opportunities. Incorporating specific requirements for accessory dwelling units achieves LIP Sections 1.2(D) and (G) (guides

future growth and development), LIP Section 1.2(F) (promotes public health, safety, and general welfare), and LIP Section 1.2(K) (assures adequate public uses, facilities, and improvements).

SECTION 4. Zoning Text Amendment Findings.

Pursuant to Malibu Municipal Code Section 17.74.040, the City Council hereby makes the following findings:

A. The subject zoning text amendment is consistent with the objectives, policies, general land uses and programs specified in the General Plan. The proposed amendment serves to enhance the Malibu General Plan Mission Statement, protect public safety and preserve Malibu's natural and cultural resources.

B. The City Council held a public hearing, reviewed the subject zoning text amendment application for compliance with the City of Malibu General Plan, Malibu Municipal Code and the Malibu Local Coastal Program, and finds that the zoning text amendment is consistent and recommends approval.

SECTION 5. Local Coastal Program Amendment No. 18-002, Amendments to the Local Implementation Plan (LIP).

The City Council hereby amends the LIP as follows:

A. Add new definitions inserted in alphabetical order to LIP Section 2.1 (Definitions) to read as follows:

ACCESSORY DWELLING UNIT - an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code and the California Building Code; and
2. A manufactured home, as defined in Section 18007 of the California Health and Safety Code.

ACCESSORY DWELLING UNIT, ATTACHED - an accessory dwelling unit that is physically attached to the primary dwelling unit and share an interior wall or as an additional story above the primary dwelling unit, but which has independent, direct access from the exterior.

ACCESSORY DWELLING UNIT, DETACHED - an accessory dwelling unit that is not an attached accessory dwelling unit.

CAR SHARE VEHICLE - a motor vehicle that is operated as part of a regional fleet by a public or private car-sharing company or organization and provides hourly or daily service. A car

share vehicle does not include vehicles used as part of ride-hailing companies such as Uber or Lyft.

COMPLETE INDEPENDENT LIVING FACILITIES - permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated.

JUNIOR ACCESSORY DWELLING UNIT - a residential unit that

1. is no more than 500 square feet in size;
2. is contained entirely within an existing or proposed single-family structure;
3. has a separate exterior entrance;
4. includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure; and
5. includes an efficiency kitchen.

KITCHEN, INCLUDING AN EFFICIENCY KITCHEN - an area within a structure that is used or designed to be used for the preparation or cooking of food and that contains each of the following:

1. A cooking facility with appliances including, but not limited to: ovens, convection ovens, stoves, stove tops, built-in grills or similar appliances.
2. A food preparation counter or counters that total at least 15 square feet in area.
3. Food storage cabinets that total at least 30 square feet of shelf space.

PASSAGEWAY - a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

PUBLIC TRANSIT - a location, including, but not limited to, a bus stop, where the public may access buses and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

TANDEM PARKING - two or more automobiles parked on a driveway or in any other location on a lot, lined up behind one another.

VERY HIGH FIRE HAZARD SEVERITY ZONE - a zone as defined in Government Code 51177 and designated by Ordinance 299.

WET BAR - a single sink and refrigerator no greater than 5 cubic feet in size with cabinets and/or counter top area not exceeding 6 lineal feet. A wet bar shall not include a refrigerator in excess of 5 cubic feet in size or a kitchen sink greater than 2 square feet in size, or a gas or electric range, stove top and/or oven (but may include a microwave oven).

B. Amend ‘LIVING AREA’ and ‘MULTI-FAMILY RESIDENCE’ definitions contained in LIP Section 2.1 (Definitions) to read as follows:

LIVING AREA - the interior habitable area of a dwelling unit, including finished basements or attics but does not include unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet, garages or accessory structures.

MULTI-FAMILY RESIDENCE - a building or portion thereof used for occupancy by two or more families living independently of each other and containing two or more dwelling units. This does not apply to a primary residence and an ADU or guest house on the same parcel.

C. Delete “ KITCHEN” and “SECOND UNIT” definitions contained in LIP Section 2.1 (Definitions).

D. Amend LIP 3.3(Q)(2)(a), to read as follows:

a. Lot Nos. 1—5

- i. One single-family residence per lot.
- ii. Accessory uses guest house in accordance with Section 3.6(N)(1), garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
- iii. Accessory dwelling units in accordance with Section 3.10.
- iv. Domestic animals, kept as pets.
- v. Landscaping.

E. Amend LIP 3.3(Q)(4)(a)(vi), to read as follows

vi. Parking (In addition to the parking standards of LIP Section 3.14)

- a) Two enclosed and two unenclosed parking spaces. The minimum size for a residential parking space shall be 18 feet long by 10 feet wide.
- b) For a guest house see Section 3.6(N)(1)(d).
- c) For an accessory dwelling unit see Section 3.10.

F. Amend LIP 3.6(D) to read as follows:

D. The minimum floor area of a residential unit shall be as follows:

- 1. For a single-family residence, not less than 800 square feet, exclusive of any appurtenant structures. This minimum does not apply to accessory dwelling units.
- 2. For each multi-family dwelling unit, not less than 750 square feet, exclusive of any appurtenant structures. This minimum does not apply to accessory dwelling units.

G. Amend LIP 3.6(K)(2) to read as follows:

2. Multistory or Single Floor Area, Structures Greater Than Eighteen (18) Feet in Height. Notwithstanding any other provision of this chapter, the total development square footage for a structure greater than eighteen (18) feet in height shall not be greater than permitted for single-story construction. The second floor area plus the area of vaulted ceilings above eighteen (18) feet in height shall not exceed two-thirds the first floor area, and shall be oriented so as to minimize view blockage from adjacent properties.

H. Amend LIP 3.6(N), to read as follows:

N. Accessory Structures. Accessory structures identified as being permitted within any zone may be established only if they are clearly accessory to a primary permitted or conditionally permitted use established concurrent with or prior to establishment of accessory use.

1. Guest houses

a. Development of a guest house, as defined in Section 2.1, shall require that a primary dwelling unit be developed on the same lot prior to or concurrent with the guest house.

b. Only one guest house is allowed per lot. Guest houses are not allowed on properties with an accessory dwelling unit.

c. Development Standards

i) Siting. Any permitted guest house shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification. All guest houses must comply with residential development standards in Section 3.6.

ii) Maximum Size. The maximum square footage of a guest house shall not exceed 900 square feet. The maximum square footage shall include interior and exterior walls, basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage provided as part of the guest house, exterior decks, covered patios or overhangs that are attached to the structure shall not be included in the 900 square foot limit. The maximum square footage of a guest house, garage and other attached structures that are otherwise considered total development square footage shall be included in the overall total development square footage for the lot.

iii) A 10-foot separation between the guest house and any other structure shall be maintained if the parcel is within a Very High Fire Hazard Severity Zone.

d. Parking

- i) A minimum of one off-street enclosed or unenclosed parking space shall be provided for the exclusive use of a guest house.
- ii) One garage not to exceed 400 square feet in size may be permitted as part of a guest house.

I. Add LIP Section 3.10 (Accessory Dwelling Units) to read as follow:

3.10. ACCESSORY DWELLING UNITS

Accessory Dwelling Units - The following regulations shall apply to accessory dwelling units (ADUs) approved under this section.

A. Purpose. The purpose of this section is to allow and regulate ADUs in compliance with California Government Code Sections 65852.2 and 65852.22. Because the City of Malibu lies entirely within the Coastal Zone, every ADU application in the City will be subject to an analysis for compliance with the Local Coastal Program (LCP) and Coastal Act. State law is explicit about the Coastal Act not being preempted by the State's ADU statute (Government Code Section 65852.2, subdivision (j).) The entire City of Malibu is located in a designated "Very High Fire Hazard Severity Zone", and this section ensures that ADUs are developed and operated on adequate sites, at proper and desirable locations, and that the goals and objectives of the LCP are met.

B. Effect of Conforming. An ADU that conforms to the standards in this section will be:

- 1. Deemed to be consistent with the City's General Plan and zoning designation for the lot on which the ADU is located.
- 2. Deemed not to exceed the allowable density for the lot on which the ADU is located.
- 3. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.
- 4. Permitted to maintain a nonconforming zoning condition. For purposes of this paragraph 3.10 B.4, "nonconforming zoning condition" means physical improvement on a property that does not conform with current zoning standards. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.1

C. Definitions. Definition of terms used in this Section can be found at Section 2.1 – General Definitions.

D. Areas Permitted. ADUs shall be allowed on lots zoned to allow single-family or multi-family dwelling residential use. These areas include Rural Residential (RR), Single Family (SF), Multi-Family (MF), Multi-Family Beach Front (MFBF), and areas designated for single family residential use as part of a Planned Development (PD) zone.

E. Minimum Street Width Requirement. Since the entire City is located within is located in a designated “Very High Fire Hazard Severity Zone” and consistent with Los Angeles County Fire Department requirements to ensure adequate ingress and egress for fire safety a minimum street width of 20 feet shall be required.

F. Coastal Development Permit required.

1. An administrative coastal development permit (ACDP) issued in accordance with Section 13.31 shall be required for all detached and attached ADUs and ADUs located inside an existing accessory building including when a legally established accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU.

2. An ADU or JADU created from habitable space and located entirely within an existing single-family residence that does not change the building envelope is not considered development and does not require an ACDP. Unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet, and garages would not be considered habitable space.

3. Detached ADUs on a multifamily zoned property shall require an ACDP. An ADU located inside of a multifamily dwelling and ADUs attached to a multifamily dwelling is not allowed.

4. The City may charge a fee to reimburse it for costs incurred in processing ACDP permits, including the costs of adopting or amending the City’s ADU ordinance. The ACDP permit processing fee is determined by the City Council by resolution.

G. General Requirements. The following general requirements apply to all ADUs:

1. Zoning. A detached ADU shall be located within the required development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification.

2. Fire Sprinklers. Fire sprinklers are required in an ADU.

3. Rental Term. An ADU may not be rented for a term that is shorter than 30 days.

4. Rental Rate Reporting. To facilitate the City’s obligation to identify adequate sites for housing in accordance with Government Code Sections 65583.1 and 65852.2, and to allow ADUs to count towards the City’s Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each yearly anniversary of the issuance of the building permit, the owner shall report the actual rent charged for the ADU during the prior year.

5. No Separate Conveyance. An ADU may be rented, but no ADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multi-family lot).

6. Septic System. If the ADU is required to connect to an onsite wastewater treatment system, the owner must include a percolation test completed within the last five years with the ADU application or, if the percolation test has been recertified, within the last 10 years. The ADU shall comply with all applicable requirements for wastewater treatment systems.

7. Deed Restriction. Prior to issuance of a building permit for an ADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:

- a. The ADU may not be sold separately from the primary dwelling.
- b. The ADU must remain an ADU unless City approval is obtained to convert the structure to a different accessory structure.
- c. An ADU created cannot be rented for less than 30 days.
- d. The ADU is restricted to the approved size.
- e. The deed restriction runs with the land and may be enforced against future property owners.
- f. The deed restriction may be removed if the owner eliminates the ADU as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of the LCP. If the ADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this LCP.
- g. The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU in violation of the recorded restrictions or abatement of the illegal unit.

H. ADU Development Standards. The following development standards apply to ADUs. All requirements of the Malibu LIP that are consistent with the criteria listed below shall remain in effect. If there is a conflict between the standards of this Section 3.10(G) and standards that protect coastal resources, the requirements which are most protective of coastal resources shall prevail.

1. Size.

- a. The minimum square footage of an ADU shall be 400 square feet and the maximum square footage of an ADU shall be 1,200 square feet. The maximum square footage shall include interior and exterior walls, basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. For purposes of TDSF, the size of an ADU shall be consistent with 3.6(K). The area of a garage (400 square feet maximum) provided as part of accessory dwelling unit and exterior decks or overhangs that are attached to the structure shall not be included in the 1,200 square foot limit. The maximum square footage of the ADU, garage, and other attached structures that are otherwise considered total development square footage shall be included in the overall total development square footage for the lot.
- b. An ADU that is attached to the primary dwelling is limited to 50 percent of the living area of the existing primary dwelling or 1,200 square feet, whichever is less.
- c. Application of TDSF, impermeable coverage, and other development standards may further limit the size of the ADU.
- d. The maximum size of an ADU in a converted existing detached accessory structure or primary dwelling shall not exceed the size limits provided in the other paragraphs of this subsection G(1).

2. Height

- a. No ADU may exceed 16 feet in height above grade as measured from existing or finished grade, whichever results in the lower building height.
- b. Pursuant to Section 13.27 of the Malibu LIP (Site Plan Review), the Director may allow heights up to 24 feet. In no event shall the maximum number of stories above grade be greater than two.
- c. When a legally established accessory structure is demolished and replaced with a new structure for the purposes of creating an ADU, the replacement structure may not exceed 18 feet in height.

3. Setbacks.

- a. All ADUs remain subject to the setback standards in Section 3.6(F) and (G), as applicable including when a legally established accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU.
- b. Pursuant to Section 13.27 of the Malibu LIP, the Director may grant minor modification permits to reduce setback requirements.

4. Passageway. No passageway, as defined in Section 2.1, is required for an ADU.

5. Parking.

a. One off-street parking space is required for each ADU. The parking space may be enclosed or unenclosed. Unenclosed parking spaces may be provided in setback areas or as tandem parking, as defined in Section 2.1, except where it is not feasible based on specific site topographic or fire and life safety conditions, and where it would violate an ESHA protection or scenic view corridor requirement.

b. An ADU may include a garage not to exceed four hundred (400) square feet.

c. For a garage, carport, or covered parking structure that is converted to an ADU, onsite replacement parking spaces shall be required that comply with the minimum number of spaces and dimensions stated in LIP 3.14.3.

6. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except for a garage which serves the ADU.

J. Amend LIP 13.4.1(A) to read as follows:

A. Improvements to existing single-family residences except as noted below in (B). For purposes of this section, the terms “Improvements to existing single-family residences” includes all fixtures and structures directly attached to the residence and those structures normally associated with a single-family residence, such as garages, swimming pools, fences, storage sheds and landscaping but specifically not including guest houses or accessory dwelling units.

K. Amend LIP 13.11(A) to read as follows:

A. At least one public hearing shall be required on all appealable development as defined in Chapter 2 of the Malibu LIP (Definitions), except for accessory dwelling units, in accordance with Section 3.10 unless the accessory dwelling unit is developed concurrent with a new single-family dwelling.

1. Such hearing shall occur no earlier than seven (7) calendar days following the mailing of the notice required in Section 13.12 of the Malibu LIP. The public hearing may be conducted in accordance with existing City procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing.

2. If a decision on a development permit is continued by the City to a time which is neither (a) previously stated in the notice provided pursuant to Section 13.12 of the Malibu LIP, or (b) announced at the hearing as being continued to a time certain, the local government shall provide notice of the further hearings (or action on the proposed development) in the same

manner, and within the same time limits as established in Section 13565 of the California Code of Regulations.

L. Amend LIP 13.11(B) to read as follows:

B. Any person may submit written comments to the Planning Director on an application for a Coastal Development Permit, or on an appeal of a Coastal Development Permit, at any time prior to the close of the public hearing. If no public hearing is required, written comments may be submitted prior to the decision date specified in the public notice. Written comments shall be submitted to the Planning Director who shall forward them to the appropriate person, commission, board or the Council and to the applicant.

M. Amend LIP Section 13.13.1 to read as follows:

A. The Planning Director may process consistent with the procedures in this Chapter any coastal development permit application for the specific uses identified below, except a proposed coastal development permit that is appealable or is within the Commission's continuing jurisdiction as defined in Chapter 2 of the Malibu LIP (Definitions).

1. Improvements to any existing structure;
2. Any single-family dwelling;
3. Lot mergers;
4. Any development of four dwelling units or less that does not require demolition, and any other developments not in excess of one hundred thousand dollars (\$100,000) other than any division of land;
5. Water wells.

B. Notwithstanding any other provisions of the LCP, accessory dwelling units created in accordance with Section 3.10 shall be processed as administrative permits. The approval of such permits shall be appealable to the Coastal Commission if the project is located in the appealable zone.

N. Amend Appendix 1-LIP Table B (Permitted Uses) to make the following modifications within columns as indicated, together with an additional footnote. All other portions of Table B shall remain unaffected.

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
<u>Accessory dwelling units</u>	A ²²	A ²²	A ²²	A ²²	.	.	.	.	.	.	.	.	.	.	.	.
<u>Accessory uses (guest house, garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)</u>	A ¹	A ¹	A ¹	A ¹	.	.	.	.	.	.	.	.	.	.	.	.

Notes:

22. Subject to Accessory Development Standards (Section 3.10).

SECTION 6. Zoning Text Amendment No. 18-004, Amendments to the Malibu Municipal Code (MMC).

The City Council hereby amends Title 17 - Zoning in the MMC as follows:

A. Add new definitions inserted in alphabetical order to 17.02.060 (Definitions) to read as follows:

“Kitchen” means an area within a structure that is used or designed to be used for the preparation or cooking of food and that contains each of the following:

1. A cooking facility with appliances including, but not limited to: ovens, convection ovens, stoves, stove tops, built-in grills or similar appliances.
2. A food preparation counter or counters that total at least 15 square feet in area.
3. Food storage cabinets that total at least 30 square feet of shelf space

“Wet Bar” means a single sink and refrigerator no greater than 5 cubic feet in size with cabinets and/or counter top area not exceeding 6 lineal feet. A wet bar shall not include a refrigerator in excess of 5 cubic feet in size or a kitchen sink greater than 2 square feet in size, or a gas or electric range, stove top and/or oven (but may include a microwave oven).

B. Amend “LIVING AREA” and “MULTI-FAMILY RESIDENCE” definitions contained in 17.02.060 (Definitions) to read as follows:

LIVING AREA - the interior habitable area of a dwelling unit, including finished basements or attics but does not include unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet, garages or accessory structures.

MULTI-FAMILY RESIDENCE - a building or portion thereof used for occupancy by two or more families living independently of each other and containing two or more dwelling units. This does not apply to a primary residence and an ADU or guest house on the same parcel.

C. Delete “ KITCHEN” and “SECOND UNIT” definitions contained in 17.02.060 (Definitions).

D. Amend Section 17.08.020(C)(1) to read as follows

1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, guest houses in accordance with Section 17.40.040(A)(21), detached garages, barns, pool houses, gazebos, storage sheds, and greenhouses (noncommercial),

E. Amend Section 17.08.020(F) to read as follows:

- F. Accessory dwelling units in accordance with Chapter 17.44;
- F. Amend Section 17.10.020(C)(1) to read as follows:
 - 1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, detached garages, barns, pool houses, gazebos, storage sheds, guest houses in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial),
- G. Amend Section 17.10.020(E) to read as follows:
 - E. Accessory dwelling units in accordance with Chapter 17.44;
- H. Amend Section 17.12.020(C)(1) to read as follows:
 - 1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, detached garages, barns, pool houses, gazebos, storage sheds, guest houses in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial),
- I. Amend Section 17.12.020(E) to read as follows:
 - E. Accessory dwelling units in accordance with Chapter 17.44;
- J. Amend Section 17.14.020(C)(1) to read as follows:
 - 1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, detached garages, barns, pool houses, gazebos, storage sheds, guest houses in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial),
- K. Amend Section 17.14.020(E) to read as follows:
 - E. Accessory dwelling units in accordance with Chapter 17.44;
- L. Amend Section 17.39.020(A) to read as follows:
 - A. Lot Nos. 1—5.
 - 1. One single-family residence per lot.
 - 2. Accessory uses (guest house in accordance with Section 17.40.040(A)(21), garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the planning director).
 - 3. Accessory dwelling units in accordance with Chapter 17.44.
 - 4. Domestic animals, kept as pets.
 - 5. Landscaping.

M. Amend Section 17.39.040(A)(6) to read as follows:

6. Parking (In addition to the parking standards of Section 17.40.040.
 - a. Two enclosed and two unenclosed parking spaces. The minimum size for a residential parking space shall be eighteen (18) feet long by ten (10) feet wide.
 - b. For a guest house see Section 17.40.040(A)(21).
 - c. For an accessory dwelling unit see Chapter 17.44.

N. Add Section 17.40.040(21) to read as follows:

21. Guest Houses

- a. Development of a guest house shall require that a primary dwelling unit be developed on the lot prior to or concurrent with the guest house.
- b. Only one guest house is allowed per lot. Guest houses are not allowed on properties with an attached or detached accessory dwelling unit.

c. Development Standards

1. Siting. Any permitted guest house shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification. All guest houses must comply with residential development standards in Section 17.40.040.
2. Maximum Size. The maximum square footage of a guest house shall not exceed 900 square feet. The maximum square footage shall include interior and exterior walls, basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage provided as part of the guest house, exterior decks, covered patios, or overhangs that are attached to the structure shall not be included in the 900 square foot limit. The maximum square footage of a guest house, garage, and any other attached structures that are otherwise considered total development square footage shall be included in the overall total development square footage for the lot.
3. A 10-foot separation between the guest house and any other structure shall be maintained if the parcel is within a Very High Fire Hazard Severity Zone.

d. Parking

1. A minimum of one onsite enclosed or unenclosed parking space shall be provided for the exclusive use of a guest house.

2. One garage, attached and solely used for the guest house not to exceed 400 square feet in size may be permitted as part of a guest house.

O. Amend Section 17.45.030 (Q) to revise the following definition

Q. “Principal residence” and “principal residential structure” mean the primary residential structure located on a lot. Guest houses accessory dwelling units and junior accessory dwelling units are not principal residences or principal residential structures.

P. Amend Appendix 1 (Permitted Use Table) to make the following modifications within columns as indicated, together with an additional footnote. All other portions of the Permitted Use Table shall remain unaffected.

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
RESIDENTIAL																
Accessory dwelling units	A ³³	A ³³	A ³³	A ³³	.	.	.	.	.	.	.	.	.	.	.	.
Accessory uses (guest house, garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)	A ¹	A ¹	A ¹	A ¹	.	.	.	.	.	.	.	.	.	.	.	.

Notes:

33. Subject to Accessory Development Standards (Chapter 17.44).

SECTION 7. Effective Date.

In accordance with California Government Code section 36937, this Ordinance shall become effective on the 30th day following its passage and adoption, except for the amendment to the Local Coastal Program. The LCPA is subject to certification by the California Coastal Commission and shall become effective after certification.

SECTION 8. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality or the remaining portions of this Ordinance; it being hereby expressly declared and this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phases be declared invalid or unconstitutional.

SECTION 9. Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance.

PASSED, APPROVED, and ADOPTED this 11th day of September 2023.

BRUCE SILVERSTEIN, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

TREVOR RUSIN, City Attorney

ORDINANCE NO. 511

AN ORDINANCE OF THE CITY OF MALIBU APPROVING ZONING TEXT AMENDMENT NO. 18-004 AN AMENDMENT TO TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE TO UPDATE ACCESSORY DWELLING UNIT REGULATIONS AND DETERMINING THE AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does ordain as follows.

SECTION 1. Recitals.

A. On June 11, 2018, the City Council adopted Resolution No. 18-28 to: 1) initiate Local Coastal Program (LCP) Amendment No. 18-002 and Zoning Text Amendment (ZTA) No. 18-004, to update accessory dwelling unit regulations consistent with State law, and 2) direct the Planning Commission to schedule a public hearing regarding the ZTA and provide a recommendation to the Council whether to approve, modify, or reject the amendment.

B. On July 17, 2018, the Zoning Ordinance Revision and Code Enforcement Subcommittee (ZORACES) met to discuss the proposed amendments to the MMC and LCP and recommended that the City's existing second unit regulations be updated consistent with Accessory Dwelling Unit State law.

C. On August 9, 2018, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

D. On August 30, 2018, a Notice of Availability of LCPA Documents was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

E. On September 4, 2018, the Planning Commission held a duly noticed public hearing to discuss new accessory dwelling unit (ADU) laws. The Planning Commission provided direction to staff and requested additional information. The Planning Commission also found that ADUs may provide units that can be utilized to meet the City's Regional Housing Needs Allocation (RHNA) and recommended that short-term rentals be prohibited in accessory dwelling units.

F. Between October 2018 and February 2020, the proposed amendments were noticed to be considered by the Planning Commission, however, the hearings were rescheduled.

G. On March 16, 2020, due to the COVID-19 pandemic, all public hearings scheduled for the March 16, 2020 Regular Planning Commission were continued to the April 6, 2020 Regular Planning Commission meeting.

H. On April 6, 2020, the Planning Commission continued the public hearing to a date uncertain.

I. On May 20, 2021, the Planning Commission held a duly noticed public hearing on the proposed ADU amendments. The Planning Commission provided direction to staff and requested additional information.

J. On December 6, 2021, the Planning Commission continued the public hearing to the January 18, 2022 Regular Planning Commission meeting.

K. On January 18, 2022, the Planning Commission continued the public hearing to the March 7, 2022 Regular Planning Commission meeting.

L. On March 7, 2022, the Planning Commission continued the public hearing to a date uncertain. The Planning Commission provided direction to staff and requested additional studies and referrals.

M. On August 22, 2022, the City Council discussed the additional studies and referrals requested by the Planning Commission and directed staff to 1) minimize changes to the Local Coastal Program by utilizing most of the existing second unit regulations, which currently protect coastal resources and public access, to revise the proposed ADU ordinance, and 2) refer the item back to the Planning Commission without the requested studies or referrals since they wouldn't be needed at this time if the City utilizes current second unit regulations in the ADU ordinance.

N. On March 6, 2023, the Planning Commission continued the public hearing to a March 14, 2023, Special Planning Commission meeting.

O. On March 14, 2023, the Planning Commission held a duly noticed public hearing on the proposed ADU amendments on LCPA 18-002 and ZTA No.18-004, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and recommended approval of the amendments with some modifications.

P. On August 3, 2023, a Notice of City Council Public Hearing and Notice of Availability of LCP Documents was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

Q. On August 28, 2023, before consideration of the item, the public hearing was continued to September 11, 2023.

R. On September 11, 2023, the City Council held a duly noticed public hearing on the proposed ADU amendments on LCPA 18-002 and ZTA No.18-004, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect. LCP Local Implementation Plan (LIP) Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent inconsistency between the LCP and the City's Zoning Ordinance, if the LCP amendment is approved, the City must also approve the corollary amendment to the Zoning Ordinance. This amendment is necessary for the preparation and adoption of the LCPA and because they are entirely dependent on, related to, and duplicative of the exempt activity, they are subject to the same CEQA exemption.

In addition, the project is exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 21080.17, which states that the CEQA does not apply to the adoption of local ordinances regulating construction of second units and by CEQA Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones.

Furthermore, the City Council has analyzed the proposed amendments. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 1 5061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council determined that the proposed amendments are required by State law and will not result in changes from existing development standards, such as density limits and environmental resource protection standards; consequently, there is no possibility the amendment will have a significant effect on the environment and accordingly, and the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Zoning Text Amendment Findings.

Pursuant to Malibu Municipal Code Section 17.74.040, the City Council hereby makes the following findings:

A. The subject zoning text amendment is consistent with the objectives, policies, general land uses and programs specified in the General Plan. The proposed amendment serves to enhance the Malibu General Plan Mission Statement, protect public safety and preserve Malibu's natural and cultural resources.

B. The City Council held a public hearing, reviewed the subject zoning text amendment application for compliance with the City of Malibu General Plan, Malibu Municipal Code and the Malibu Local Coastal Program, and finds that the zoning text amendment is consistent and recommends approval.

SECTION 4. Zoning Text Amendment No. 12-002, Amendments to the Malibu Municipal Code (MMC).

The City Council hereby amends Title 17 - Zoning in the MMC as follows:

O. Add Chapter 17.44 (Accessory Dwelling Units) to read as follows:

17.44.010 Title.

This chapter shall be known as the “Malibu Accessory Dwelling Unit Ordinance.”

17.44.020 Purpose.

The purpose of this chapter is to allow and regulate accessory dwelling units (ADUs) and Junior accessory dwelling units (JADUs) in compliance with California Government Code Sections 65852.2 and 65852.22. The entire the City of Malibu is located in a designated “Very High Fire Hazard Severity Zone”, and this chapter ensures that ADUs and JADUs are developed and operated on adequate sites, at proper and desirable locations, and that the goals and objectives of the General Plan are observed.

17.44.030 Effect of Conforming.

An ADU or JADU that conforms to the standards in this chapter will be:

- A. Deemed to be consistent with the City’s General Plan and zoning designation for the lot on which the ADU or JADU is located.
- B. Deemed not to exceed the allowable density for the lot on which the ADU or JADU is located.
- C. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.
- D. Permitted to maintain a nonconforming zoning condition. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.1. For purposes of this chapter, “nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.

17.44.040 Definitions.

“Accessory Dwelling Unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

- 1. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code and the California Building Code; and
- 2. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

“Junior Accessory Dwelling Unit” means a residential unit that

1. is no more than 500 square feet in size;
2. is contained entirely within an existing or proposed single-family structure; an enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;
3. has an independent exterior entrance, apart from that of the primary dwelling;
4. includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure; and
5. includes an efficiency kitchen.

“Efficiency kitchen” means a kitchen that includes all of the following:

1. A cooking facility with appliances.
2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

“Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit or junior accessory dwelling unit.

“Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

“Public transit” means a location, including, but not limited to, a bus stop, where the public may access buses and other forms of transportation that charges set fares, run on fixed routes, and available to the public.

“Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

“Very High Fire Hazard Severity Zone” means zone as defined by Government Code 51177 and designated by Ordinance 299.

17.44.050 Permitted Locations.

- A. ADUS and JADUs under Section 17.44.060(A) shall be allowed on lots that are in a residential or mixed-use zone.
- B. ADUs under Section 17.44.060(B) shall be allowed on lots zoned to allow single-family or multi-family dwelling residential use. These zones include Rural Residential (RR), Single

Family (SF), Multi-Family (MF), Multi-Family Beach Front (MFBF), and Planned Development (PD).

- C. Areas with Adequate Ingress and Egress. Since the entire City is located within is located in a designated “Very High Fire Hazard Severity Zone,” consistent with Los Angeles County Fire Department requirements to ensure adequate ingress and egress for fire safety, a minimum street width of 20 feet shall be required. ADUs are not allowed on parcels that do not have ingress and egress to a street at least 20 feet in width.
- D. Multifamily Lots. ADUs are allowed on multifamily lots pursuant to 17.44.060 A.3 and A.4. New attached ADUs are not allowed.

17.44.060 Approvals.

The following approvals apply to ADUs and JADUs developed under this Chapter. Because the City of Malibu lies entirely within the Coastal Zone, every ADU application in the City is subject to an analysis for compliance with the Local Coastal Program (LCP) and Coastal Act before it is reviewed for compliance with this Chapter. If an application for an ADU is not subject to the LCP, then this Chapter governs. State law is explicit about the Coastal Act not being preempted by the State’s ADU statute (Government Code Section 65852.2, subdivision (l)).

- A. Building-Permit Only. If an ADU or JADU complies with each of the general requirements in section 17.44.080 below, it is allowed with only a building permit in the following scenarios:
 - 1. Converted on Single-family Lot: One ADU as described in this subsection (A)(1) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - a. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and
 - b. Has exterior access that is independent of that for the single-family dwelling; and
 - c. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - d. The JADU complies with the requirements of Government Code Section 65852.22.
 - 2. Limited Detached on Single-family Lot: One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (A)(1) above if the detached ADU satisfies each of the following limitations:
 - a. The side- and rear-yard setbacks are at least four feet.

- b. The total floor area is 800 square feet or smaller.
 - c. The peak height above grade does not exceed the applicable height limit in subsection 17.44.090 (B) below.
- 3. Converted on Multifamily Lot: One or more ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection (A) (3) at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.
 - 4. Limited Detached on Multifamily Lot: No more than two detached ADUs on a lot that has an existing or proposed multifamily dwelling if each detached ADU satisfies both of the following limitations:
 - a. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.
 - b. The peak height above grade does not exceed the applicable height limit provided in subsection 17.44.090 (B) below.

B. Administrative Plan Review Permit (APR)

- 1. Except as allowed under subsection 17.44.060 (A), no ADU may be created without a building permit and an APR permit in compliance with the standards set forth in Sections 17.44.080 and 17.44.090.
- 2. The City may charge a fee to reimburse it for costs incurred in processing APR permits, including the costs of adopting or amending the City's ADU ordinance. The APR permit processing fee is determined by the City Council by resolution.

17.44.070 Process and Timing.

- A. An APR is considered and approved ministerially by the Planning Director without discretionary review or a hearing.
- B. The City must approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a complete application, unless either:
 - 1. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or

2. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the city may delay acting on the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.
- C. If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection (B) above.
- D. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

17.44.080 General ADU and JADU Requirements.

The following requirements apply to all ADUs and JADUs that are approved under Section 17.44.060.

- A. Rental Term. An ADU or JADU may not be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.
- B. Rental Rate Reporting. To facilitate the City's obligation to identify adequate sites in accordance with Government Code Sections 65583.1 and 65852.2, and to allow ADUs to count towards the City's Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each January 1 following issuance of the building permit, the owner shall report the actual rent charged for the ADU or JADU during the prior year.
- C. No Separate Conveyance. An ADU or JADU may be rented, but, except as otherwise provided in Government Code section 65852.26, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multi-family lot).
- D. Septic System. If the ADU or JADU will connect to an onsite water treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
- E. Fire Sprinklers.
 1. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
 2. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

F. Owner Occupancy.

1. An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.
2. Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.
3. As required by State law, all JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

G. Deed Restriction. Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:

1. Except as otherwise provided in Government Code Section 65852.26, the ADU or JADU may not be sold separately from the primary dwelling.
2. The ADU or JADU must remain an ADU unless City approval is obtained to convert the structure to a different accessory structure.
3. An ADU or JADU created cannot be rented for less than 30 days.
4. The ADU or JADU is restricted to the approved size.
5. The JADU must be reconverted to be part of the primary residence if the owner does not reside on the property.
6. The deed restriction runs with the land and may be enforced against future property owners.
7. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed but is

only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.

8. The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

H. Building and Safety.

1. Must comply with building code. Subject to subsection (H)(2) below, all ADUs and JADUs must comply with all local building code requirements.
2. No change of occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (H)(2) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section

I. Height.

1. No ADU subject to this Chapter may exceed 16 feet in height above grade, as measured from existing or finished legal grade, whichever results in the lower building height except as provided in subsection B.2. though B.5
2. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.
3. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.
4. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (B)(4) may not exceed two stories.

17.44.090 Specific ADU Requirements.

The following requirements apply only to ADUs that require an APR permit under Section 17.44.060(B) above.

A. Size

1. The maximum square footage of an ADU shall be 850 square feet for a studio or one bedroom and 1,000 square feet for two or more bedrooms. The maximum square footage shall include interior and exterior walls, finished and unfinished basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage (400 square feet maximum) provided as part of accessory dwelling unit and exterior decks or overhangs that are attached to the structure shall not be included in the 850 to 1,000 square foot limit.
2. An ADU that is attached to the primary dwelling is limited to 50 percent of the existing primary dwelling.
3. Application of other development standards in this Section 17.44.090 might further the limit the size of the ADU, but no application of an FAR, front-setback, lot-coverage, or open-space requirement may require the ADU to be less than 800 square feet.
4. By definition, a JADU may not be larger than 500 square feet.

B. Setbacks.

1. The front yard setback of an ADU located on a non-beach front lot, subject to this Section 17.44.090, shall be at least twenty (20) percent of the total depth of the lot, or sixty-five feet, whichever is less. On a beachfront lot, the front yard setback shall be twenty (20) feet maximum or the average of the two immediate neighbors, whichever is less.
2. No part of any ADU subject to this Section 17.44.090 may be located within four feet of a side or rear property line.
3. No additional setback is required for an ADU that is subject to this Section 17.44.090 if the ADU is constructed in the same location and to the same dimensions as an existing legally established accessory structure that was demolished and then replaced with the ADU.

C. Passageway. No passageway, as defined by Section 17.02.060, is required for an ADU.

D. Parking.

1. Generally. One off-street enclosed or unenclosed parking space is required for each ADU. Unenclosed parking spaces may be provided in setback areas or as tandem parking, as defined by Section 17.02.060.
2. Exceptions. No parking under subsection (E)(1) above is required in the following situations:
 - a. The ADU is located within one-half mile walking distance of public transit, as defined in Section 17.02.060.
 - b. The ADU is located within an architecturally and historically significant historic district.
 - c. The ADU is part of the proposed or existing primary residence or an existing accessory structure, under Section 17.44.060(A)(1).
 - d. When on-street parking permits are required but not offered to the occupant of the ADU.
 - e. When there is an established car share vehicle stop located within one block of the ADU.
 - f. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (A) thru (F).
3. No Replacement of Parking Required. When a garage, carport, or covered parking structure is (a) demolished in conjunction with the construction of an ADU or (b) converted to an ADU, those off-street parking spaces are not required to be replaced. If replacement parking is proposed by the owner, the parking must be located on hardscape.
- E. Internal connection. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except to a legally established garage that serves the ADU.

17.44.100 Fees.

A. Impact Fees.

1. No impact fee shall be charged for an ADU that is less than 750 square feet in size.
2. Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the square footage of the ADU, divided by the square footage of the primary dwelling,

times the typical fee amount charged for a new dwelling.) “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.

3. For purposes of this section 17.44.100, “impact fee” means a “fee” under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477).

B. Utility Fees.

1. ADUs constructed with a single-family dwelling shall be subject to standard utility-connection requirements and fees.
2. Converted ADUs created under 17.44.060(A)(1) are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required unless the ADU is constructed with a new single-family home.
3. All ADUs not covered by 17.44.100 (B)(1) or (B)(2) above require a new, separate utility connection directly between the ADU and the utility. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU, based on either the square footage or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system. The fee or charge may not exceed the reasonable cost of providing this service.

17.44.110 Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.

- A. Generally. The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.
- B. Unpermitted ADUs constructed before 2018.
 1. Permit to Legalize. As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:
 - a. The ADU violates applicable building standards, or
 - b. The ADU does not comply with the state ADU law (Government Code section 65852.2) or this ADU ordinance Chapter 17.44.
 2. Exceptions:
 - a. Notwithstanding subsection (B)(1) above the city may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the

city makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.

- b. Subsection (B)(1) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

SECTION 5. Effective Date.

In accordance with California Government Code section 36937, this Ordinance shall become effective on the 30th day following its passage and adoption, except for the amendment to the Local Coastal Program. The LCPA is subject to certification by the California Coastal Commission and shall become effective after certification.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality or the remaining portions of this Ordinance; it being hereby expressly declared and this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phases be declared invalid or unconstitutional.

SECTION 7. Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance.

PASSED, APPROVED, and ADOPTED this 11th day of September 2023.

BRUCE SILVERSTEIN, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

TREVOR RUSIN, City Attorney

LOCAL COASTAL PROGRAM LAND USE PLAN

CHAPTER 3—MARINE AND LAND RESOURCES

g. New Development

3.42 New development shall be sited and designed to minimize impacts to ESHA by:

- a. Minimizing grading and landform alteration, consistent with Policy 6.8.
- b. Minimizing the removal of natural vegetation, both that required for the building pad and road, as well as the required fuel modification around structures.
- c. Limiting the maximum number of structures to one main residence, ~~one second residential structure,~~ **one accessory dwelling unit or one guest house**, and accessory structures such as, stable, corral, pasture, workshop, gym, studio, pool cabana, office, **detached garages**, or tennis court, provided that such accessory structures are located within the approved development area and structures are clustered to minimize required fuel modification.
- d. Minimizing the length of the access road or driveway, except where a longer roadway can be demonstrated to avoid or be more protective of resources.
- e. Grading for access roads and driveways should be minimized; the standard for new on-site access roads shall be a maximum of 300 feet or one-third the parcel depth, whichever is less. Longer roads may be allowed on approval of the City Planning Commission, upon recommendation of the Environmental Review Board and the determination that adverse environmental impacts will not be incurred. Such approval shall constitute a conditional use to be processed consistent with the LIP provisions.
- f. Prohibiting earthmoving operations during the rainy season, consistent with Policy 3.47.
- g. Minimizing impacts to water quality, consistent with Policies 3.94—3.155. (Resolution No. 07-04)

CHAPTER 5—NEW DEVELOPMENT

2. Land Use Plan Provisions

The LUP provides parameters for new development within the City. The Land Use Plan Map designates the allowable land use, including type, maximum density and intensity, for each parcel. Land use types include local commercial, visitor serving commercial, residential, institutional, recreational, and open space. The LUP describes the allowable uses in each category.

The commercial development policies provide for pedestrian and bicycle circulation to be provided within new commercial projects in order to minimize vehicular traffic. Visitor serving commercial uses shall be allowed in all commercial zones in the City and shall be given priority over other non-coastal dependent development. Parking facilities approved for office or other commercial developments shall be permitted to be used for public beach parking on weekends and other times when the parking is not needed for the approved uses.

The LUP encourages and provides for the preparation of a specific plan or other comprehensive plan for the Civic Center area. The Land Use Plan Map designates this area for Community Commercial, General Commercial, and Visitor- Serving Commercial uses. By preparing a Specific Plan a wider range and mix of uses, development standards, and design guidelines tailored to the unique characteristics of the Civic Center could be provided for this area as a future amendment to the LCP.

The LUP policies address new residential development. The maximum number of structures allowed in a residential development is one main residence, one ~~second residential structure~~ accessory dwelling unit or one guest house, and additional accessory structures provided that all such structures are located within the approved development area and clustered to minimize required fuel modification, landform alteration, and removal of native vegetation.

The LUP provides for a lot retirement program designed to minimize the individual and cumulative impacts of the potential buildout of existing parcels that are located in ESHA or other constrained areas and still allow for new development and creation of parcels in areas with fewer constraints. This includes the Transfer of Development Credit (TDC) Program, and an expedited reversion to acreage process. The TDC program will be implemented on a region-wide basis, including the City as well as the unincorporated area of the Santa Monica Mountains within the Coastal Zone. New development that results in the creation of new parcels, or multi-family development that includes more than one unit per existing parcel, except for affordable housing units, must retire an equivalent number of existing parcels that meet the qualification criteria of the program. Finally, an expedited procedure will be implemented to process reversion to acreage maps.

The LUP policies require that land divisions minimize impacts to coastal resources and public access. Land divisions include subdivisions through parcel or tract map, lot line adjustments, and certificates of compliance. Land divisions are only permitted if they are approved in a coastal development permit. A land division cannot be approved unless every new lot created would contain an identified building site that could be developed consistent with all policies of the LCP. Land divisions must be designed to cluster development, to minimize landform alteration, to

minimize site disturbance, and to maximize open space. Any land division resulting in the creation of additional lots must be conditioned upon the retirement of development credits (TDCs) at a ratio of one credit per new lot created. Certificates of compliance must meet all policies of the LCP.

The LUP policies provide for the protection of water resources. New development must provide evidence of an adequate potable water supply. The use of water wells to serve new development must minimize individual and cumulative impacts on groundwater supplies and on adjacent or nearby streams, springs or seeps and their associated riparian habitats. Water conservation shall be promoted. Reclaimed water may be used for approved landscaping, but landscaping or irrigation of natural vegetation for the sole purpose of disposing of reclaimed water is prohibited.

Communication facilities are provided for as a conditional use in all land use designations. All facilities and related support structures shall be sited and designed to protect coastal resources, including scenic and visual resources. Co-location of facilities is required where feasible to avoid the impacts of facility proliferation. New transmission lines and support structures will be placed underground where feasible. Existing facilities should be relocated underground when they are replaced.

Finally, the New Development policies provide for the protection and preservation of archaeological and paleontological resources. Measures to avoid and/or minimize impacts to identified archaeological and paleontological resources must be incorporated into the project and monitoring must be provided during construction to protect resources.

- h. Design guidelines, including architectural design, lighting, signs, and landscaping.
- i. Provisions for mixed use development. (Resolution No. 07-04)

6. Residential Development Policies

5.20 All residential development, including land divisions and lot line adjustments, shall conform to all applicable LCP policies, including density provisions. Allowable densities are stated as maximums. Compliance with the other policies of the LCP may further limit the maximum allowable density of development.

5.21 The maximum number of structures permitted in a residential development shall be limited to one main residence, one accessory dwelling unit or guest house, second residential structure and accessory structures such as stable, workshop, gym, studio, pool cabana, office, detached garages, or tennis court provided that all such structures are located within the approved development area and structures are clustered to minimize required fuel modification.

5.22. ~~Second residential units~~ Accessory dwelling units, guesthouses, granny units, etc.) shall be limited in size to a maximum of ~~900 square feet~~ 1,200 square feet. Guest houses shall be limited in size to a maximum of 900 square feet. The maximum square footage shall include the total floor area of all enclosed space, including lofts, mezzanines, and storage areas. ~~Detached g-~~ Garages, including garages provided as part of that that are part of a second residential unit accessory dwelling unit or guest house, shall not exceed 400 square feet (two-car) maximum. The area of a

garage provided as part of a ~~second residential unit~~ guest house or accessory dwelling unit shall not be included in the 900 ~~or 1,200~~ square foot limit, respectively.

5.23 ~~A minimum of o~~ One onsite enclosed or unenclosed parking space shall be required for the exclusive use of an any second residential unit accessory dwelling unit or guest house.

5.24 New development of an second residential unit accessory dwelling unit or guest house or other accessory structure that includes plumbing facilities shall demonstrate that adequate private sewage disposal can be provided on the project site consistent with all of the policies of the LCP.

5.25 In order to protect the rural character, improvements, which create a suburban atmosphere such as sidewalks and streetlights, shall be avoided in any rural residential designation.

LOCAL IMPLEMENTATION PLAN

CHAPTER 2—DEFINITIONS

2.1. GENERAL DEFINITIONS

ACCESSORY DWELLING UNIT - an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code and the California Building Code; and
2. A manufactured home, as defined in Section 18007 of the California Health and Safety Code.

ACCESSORY DWELLING UNIT, ATTACHED - an accessory dwelling unit that is physically attached to the primary dwelling unit and share an interior wall or as an additional story above the primary dwelling unit, but which has independent, direct access from the exterior.

ACCESSORY DWELLING UNIT, DETACHED - an accessory dwelling unit that is not an attached accessory dwelling unit.

CAR SHARE VEHICLE - a motor vehicle that is operated as part of a regional fleet by a public or private car-sharing company or organization and provides hourly or daily service. A car share vehicle does not include vehicles used as part of ride-hailing companies such as Uber or Lyft.

COMPLETE INDEPENDENT LIVING FACILITIES - permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated.

JUNIOR ACCESSORY DWELLING UNIT - a residential unit that

1. is no more than 500 square feet in size;
2. is contained entirely within an existing or proposed single-family structure;
3. has a separate exterior entrance;
4. includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure; and
5. includes an efficiency kitchen.

KITCHEN, INCLUDING AN EFFICIENCY KITCHEN - an area within a structure that is used or designed to be used for the preparation or cooking of food and that contains each of the following:

1. A cooking facility with appliances including, but not limited to: ovens, convection ovens, stoves, stove tops, built-in grills or similar appliances.
2. A food preparation counter or counters that total at least 15 square feet in area.
3. Food storage cabinets that total at least 30 square feet of shelf space.

~~KITCHEN~~—~~a room or space within a building intended to be used for the cooking and preparation of food.~~

LIVING AREA - the interior habitable area of a dwelling unit, including finished basements and or attics but does not include unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet, with a garages or accessory structures.

MULTI-FAMILY RESIDENCE - a building or portion thereof used for occupancy by three two or more families living independently of each other and containing three two or more dwelling units. This does not apply to a primary residence and an ADU or guest house on the same parcel.

PASSAGEWAY - a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

PUBLIC TRANSIT - a location, including, but not limited to, a bus stop, where the public may access buses and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

~~SECOND UNIT—an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single family dwelling is situated. The maximum living area of a second unit shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A second unit may include a garage not to exceed four hundred (400) sq. ft. The square footage of the garage shall not be included in the maximum living area~~

TANDEM PARKING - two or more automobiles parked on a driveway or in any other location on a lot, lined up behind one another.

VERY HIGH FIRE HAZARD SEVERITY ZONE - a zone as defined in Government Code 51177 and designated by Ordinance 299.

WET BAR - a single sink and refrigerator no greater than 5 cubic feet in size with cabinets and/or counter top area not exceeding 6 lineal feet. A wet bar shall not include a refrigerator in excess of 5 cubic feet in size or a kitchen sink greater than 2 square feet in size, or a gas or electric range, stove top and/or oven (but may include a microwave oven).

CHAPTER 3—ZONING DESIGNATIONS AND PERMITTED USES

Q. Planned Development (PD) Zone

1. Purpose

The PD District is intended to provide for a mix of residential and recreational development, consistent with the PD Land Use Designation in Chapter 5 (Section C.2) of the Land Use Plan consisting of five single-family residences and 1.74 acres of recreational area located east of Malibu Bluffs Park and south of Pacific Coast Highway. The PD District consists of the land designated as Assessor Parcel Numbers (APNs) 4458-018-019, 4458-018-002, and 4458-018-018, known as Malibu Coast Estate, and formerly known as the “Crummer Trust” parcel.

2. Permitted Uses

The uses and structures permitted in Malibu Coast Estate are as follows. Lot numbers are as identified on the “Malibu Coast Estate Planned Development Map 1” of this LIP.

a. Lot Nos. 1—5

- i. One single-family residence per lot.
- ii. Accessory uses (~~one second unit or~~ guest house per lot in accordance with Section 3.6(N)(1), garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the Planning Director).
- iii. Accessory dwelling units in accordance with Section 3.10.
- ~~iii.~~ iv. Domestic animals, kept as pets.
- ~~iv.~~ v. Landscaping.

b. Lot No. 6

- i. Uses and structures maintained by either the owners of Lots 1—5 or the homeowners’ association formed to serve the residential development within Malibu Coast Estate, including a guard house, private access road, gates (including entry gates), fencing, visitor parking, landscaping, guardhouse parking, community utilities, informational and directional signage, private open space, lighting and wastewater treatment facilities serving uses within Malibu Coast Estate.

c. Lot No. 7

- i. Parks and public open space, excluding community centers.

- ii. Active and passive public recreational facilities, such as ball fields, skate parks, picnic areas, playgrounds, walkways, restrooms, scoreboard, sport court fencing, parking lots, and reasonably similar uses as determined by the Planning Director. Night lighting of recreational facilities shall be prohibited, except for the minimum lighting necessary for public safety.
- iii. Onsite wastewater treatment facilities.

3. Lot Development Criteria

All new lots created in Malibu Coast Estate shall comply with the following criteria:

- a. Lot Nos. 1—5
 - i. Minimum lot area: 113,600 square feet (2.60 acres).
 - ii. Minimum lot width: 115 feet.
 - iii. Minimum lot depth: 480 feet.
- b. Lot No. 6
 - i. Minimum lot area: 125,700 square feet (2.88 acres).
 - ii. Minimum lot width: 625 feet.
 - iii. Minimum lot depth: 100 feet.
- c. Lot No. 7
 - i. Minimum lot area: 75,640 square feet (1.74 acres).
 - ii. Minimum lot width: 460 feet.
 - iii. Minimum lot depth: 100 feet.

4. Property Development and Design Standards

Development in Malibu Coast Estate shall be subject to all applicable standards of the Malibu LIP, unless otherwise indicated in this LIP Section 3.3(Q). The following development standards shall replace the corresponding development standards otherwise contained in each noted LIP Section for those lots in Malibu Coast Estate.

- a. Lot Nos. 1—5
 - i. Development Footprint and Structure Size (Replaces corresponding standards in LIP Section 3.6(K))
 - a) The total development square footage (TDSF) on each of Lot Nos. 1—5 shall not exceed the following square footage per lot:

- Lot 1 – 10,052 sq. ft.
- Lot 2 – 9,642 sq. ft.
- Lot 3 – 9,434 sq. ft.
- Lot 4 – 9,513 sq. ft.
- Lot 5 – 10,990 sq. ft.

b) Combinations of Basements, Cellars and/or Subterranean Garages. If any combination of basements, cellars, and/or subterranean garages is proposed, the initial one-thousand (1,000) square feet of the combined area shall not count toward TDSF. Any additional area in excess of one-thousand (1,000) square feet shall be included in the calculation of TDSF at ratio of one square foot for every two square feet proposed.

c) Covered areas, such as covered patios, eaves, and awnings that project up to six feet from the exterior wall of the structure shall not count toward TDSF; if the covered areas project more than six feet, the entire covered area (including the area within the six foot projection) shall be included in TDSF.

d) The development footprint on each lot (Lot Nos. 1—5) shall substantially conform to that indicated on “Malibu Coast Estate Planned Development Map 1” of this LIP. Structures on Lot 5 shall be setback a minimum of 190 feet from the edge of the bluff as identified on “Malibu Coast Estate Planned Development Map 1” in order to ensure that impacts to public views of the eastern Malibu coastline as seen from Malibu Bluffs Park are minimized. The structural setback on Lot 5 does not apply to at grade improvements or low profile above-grade improvements for accessory uses not to exceed 10 feet in height.

ii. Setbacks (Replaces corresponding standards in LIP Section 3.6F)

a) Front yard setbacks shall be at least twenty (20) percent of the total depth of the lot measured from the property line abutting the street, or sixty-five (65) feet, whichever is less. However, the front yard setback for Lot 5 shall be at least forty-three (43) feet.

b) Side yard setbacks shall be cumulatively at least twenty-five (25) percent of the total width of the lot but, in no event, shall a single side yard setback be less than ten (10) percent of the width of the lot.

c) Rear yard setbacks shall be at least fifteen (15) percent of the lot depth.

d) Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.

iii. Structure Height (Replaces corresponding standards in LIP Section 3.6(E))

a) Every residence and every other building or structure associated with a residential development (excluding chimneys), including satellite dish antenna, solar panels and rooftop equipment, shall not be higher than eighteen (18) feet, except the easternmost approximately 2,500 sq. ft. of the residence

on Lot 2 and the southwestern corner of the residence on Lot 5 shall not be higher than 15 feet, as indicated on “Malibu Coast Estate Planned Development Map 1” of this LIP. Height is measured from natural or finished grade, whichever is lower.

b) Mechanical equipment, including screens may not exceed roof height. Roof-mounted mechanical equipment shall be integrated into the roof design and screened.

c) In no event shall the maximum number of stories above grade be greater than two. Basements and subterranean garages shall not be considered a story.

iv. Grading (Replaces corresponding standards in LIP Section 8.3(B))

a) Notwithstanding other provisions of this Code, all grading associated with the berm, ingress, egress, including safety access, shall be considered exempt grading.

b) Non-exempt grading shall be limited to 2,000 cubic yards per lot.

c) Net export shall be limited to 3,500 cubic yards per lot.

v. Impermeable Coverage, Landscaping, and Berm

a) The impermeable coverage requirement in LIP Section 3.6(I) shall apply.

b) In addition to the requirements of LIP Section 3.10, site landscaping shall be designed to minimize views of the approved structures as seen from public viewing areas, including the use of native trees to screen approved structures. Landscaping and trees shall be selected, sited, and maintained to not exceed 25 feet.

c) A natural-looking earthen berm that is 4 feet in height (except for the northernmost 30 foot long portion on Lot 1 that shall be no less than 2 feet in height) above finished grade shall be constructed along the east side of all approved structures on Lots 1 and 2 to minimize views of the development from downcoast public viewing locations. The location and height of the berm shall substantially conform to that indicated on “Malibu Coast Estate Planned Development Map 1” of this LIP. The berm shall be vegetated with lower-lying native species that blend with the natural bluff landscape.

vi. Parking (In addition to the parking standards of LIP Section 3.14)

a) Two enclosed and two unenclosed parking spaces. The minimum size for a residential parking space shall be 18 feet long by 10 feet wide.

b) ~~One enclosed or unenclosed parking space~~ f For a guest house ~~or second unit~~ see Section 3.6(N)(1)(d).

c) For an accessory dwelling unit see Section 3.10.

vii. Colors and Lighting (In addition to the standards of LIP Section 6.5(B))

- a) Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the Planning Director prior to issuance of a building permit. All windows shall be comprised of non-glare glass.
- b) Lighting must comply with LIP Section 6.5(G).

viii. Permit Required

To insure the protection of scenic and visual resources in accordance with the provisions of the LCP, any future improvements to structures or significant changes to landscaping beyond that authorized by the coastal development permit (CDP) for each residential lot (Lots 1-5), which would ordinarily be exempt from a CDP pursuant to LIP Section 13.4.1, shall be subject to a new CDP or permit amendment.

3.6. RESIDENTIAL DEVELOPMENT STANDARDS

All single-family and multiple-family residences shall be subject to the following development standards:

A. through C. - No changes

D. The minimum floor area of a residential unit shall be as follows:

1. For a single-family residence, not less than 800 square feet, exclusive of any appurtenant structures. This minimum does not apply to accessory dwelling units.
2. For each multi-family dwelling unit, not less than 750 square feet, exclusive of any appurtenant structures. This minimum does not apply to accessory dwelling units.

E. thru J. – No changes

K. Residential Structure Size

2. Multistory or Single Floor Area, Structures Greater Than Eighteen (18) Feet in Height. Notwithstanding any other provision of this chapter, the total development square footage for a structure greater than eighteen (18) feet in height shall not be greater than permitted for single-story construction. The second floor area plus the area of vaulted ceilings above eighteen (18) feet in height shall not exceed two-thirds the first floor area, and shall be oriented so as to minimize view blockage from adjacent properties.

M. – no changes

N. Accessory Structures. Accessory structures identified as being permitted within any zone may be established only if they are clearly accessory to a primary permitted or conditionally permitted use established concurrent with or prior to establishment of accessory use.

~~1. Second Residential Units~~

~~a. Second residential unit includes a guest house or a second unit, as defined in Section 2.1 of the Malibu LIP.~~

~~b. A maximum of one second residential unit may be permitted as an accessory to a permitted or existing single family dwelling. Development of a second residential unit shall require that a primary dwelling unit be developed on the lot prior to or concurrent with the second residential unit.~~

~~c. Development Standards~~

~~i. Siting~~

~~—Any permitted second residential unit shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification.~~

~~ii. Maximum Living Area~~

~~—The maximum living area of a second residential unit shall not exceed 900 square feet, including the total floor area of all enclosed space, including any mezzanine or storage space. The maximum living area shall not include the area of a garage included as part of the second residential unit.~~

~~iii. Parking~~

~~a) A minimum of one on-site parking space shall be provided for the exclusive use of a second residential unit.~~

~~b) One garage not to exceed 400 square feet in size may be permitted as part of a second residential unit.~~

1. Guest houses

a. Development of a guest house, as defined in Section 2.1, shall require that a primary dwelling unit be developed on the same lot prior to or concurrent with the guest house.

b. Only one guest house is allowed per lot. Guest houses are not allowed on properties with an accessory dwelling unit.

c. Development Standards

i) Siting. Any permitted guest house shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification. All guest houses must comply with residential development standards in Section 3.6.

ii) Maximum Size. The maximum square footage of a guest house shall not exceed 900 square feet. The maximum square footage shall include interior and exterior walls, finished and unfinished basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage provided as part of the guest house, exterior decks, covered patios or overhangs that are attached to the structure shall not be included in the 900 square foot limit. The maximum square footage of a guest house, garage and other attached structures that are otherwise considered total development

square footage shall be included in the overall total development square footage for the lot.

iii) A 10-foot separation between the guest house and any other structure shall be maintained if the parcel is within a Very High Fire Hazard Severity Zone.

d. Parking

i) A minimum of one off-street enclosed or unenclosed parking space shall be provided for the exclusive use of a guest house.

ii) One garage not to exceed 400 square feet in size may be permitted as part of a guest house.

3.10. ACCESSORY DWELLING UNITS

Accessory Dwelling Units - The following regulations shall apply to accessory dwelling units (ADUs) approved under this section.

A. Purpose. The purpose of this section is to allow and regulate ADUs in compliance with California Government Code Sections 65852.2 and 65852.22. Because the City of Malibu lies entirely within the Coastal Zone, every ADU application in the City will be subject to an analysis for compliance with the Local Coastal Program (LCP) and Coastal Act. State law is explicit about the Coastal Act not being preempted by the State's ADU statute (Government Code Section 65852.2, subdivision (j).) The entire City of Malibu is located in a designated "Very High Fire Hazard Severity Zone", and this section ensures that ADUs are developed and operated on adequate sites, at proper and desirable locations, and that the goals and objectives of the LCP are met.

B. Effect of Conforming. An ADU that conforms to the standards in this section will be:

1. Deemed to be consistent with the City's General Plan and zoning designation for the lot on which the ADU is located.
2. Deemed not to exceed the allowable density for the lot on which the ADU is located.
3. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.
4. Permitted to maintain a nonconforming zoning condition. For purposes of this paragraph 3.10 B.4, "nonconforming zoning condition" means physical improvement on a property that does not conform with current zoning standards. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.1

- C. Definitions. Definition of terms used in this Section can be found at Section 2.1 – General Definitions.
- D. Areas Permitted. ADUs shall be allowed on lots zoned to allow single-family or multi-family dwelling residential use. These areas include Rural Residential (RR), Single Family (SF), Multi-Family (MF), Multi-Family Beach Front (MFBF), and areas designated for single family residential use as part of a Planned Development (PD) zone.
- E. Minimum Street Width Requirement. Since the entire City is located within is located in a designated “Very High Fire Hazard Severity Zone” and consistent with Los Angeles County Fire Department requirements to ensure adequate ingress and egress for fire safety a minimum street width of 20 feet shall be required. ADUs are not allowed on parcels that do not have ingress and egress to a street at least 20 feet in width.
- F. Coastal Development Permit required.
1. An administrative coastal development permit (ACDP) issued in accordance with Section 13.31 shall be required for all detached and attached ADUs and ADUs located inside an existing accessory building including when a legally established accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU.
 2. An ADU or JADU created from habitable space and located entirely within an existing single-family residence that does not change the building envelope is not considered development and does not require an ACDP. Unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet, and garages would not be considered habitable space.
 3. Detached ADUs on a multifamily zoned property shall require an ACDP. An ADU located inside of a multifamily dwelling and ADUs attached to a multifamily dwelling are not allowed.
 4. The City may charge a fee to reimburse it for costs incurred in processing ACDP permits, including the costs of adopting or amending the City’s ADU ordinance. The ACDP permit processing fee is determined by the City Council by resolution.
- G. General Requirements. The following general requirements apply to all ADUs:
1. Zoning. A detached ADU shall be located within the required development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification.
 2. Fire Sprinklers. Fire sprinklers are required in an ADU.
 3. Rental Term. An ADU may not be rented for a term that is shorter than 30 days.

4. Rental Rate Reporting. To facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code Sections 65583.1 and 65852.2, and to allow ADUs to count towards the City's Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each yearly anniversary of the issuance of the building permit, the owner shall report the actual rent charged for the ADU during the prior year.
5. No Separate Conveyance. An ADU may be rented, but no ADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multi-family lot).
6. Septic System. If the ADU is required to connect to an onsite wastewater treatment system, the owner must include a percolation test completed within the last five years with the ADU application or, if the percolation test has been recertified, within the last 10 years. The ADU shall comply with all applicable requirements for wastewater treatment systems.
7. Deed Restriction. Prior to issuance of a building permit for an ADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:
 - a. The ADU may not be sold separately from the primary dwelling.
 - b. The ADU must remain an ADU unless City approval is obtained to convert the structure to a different accessory structure.
 - c. An ADU created cannot be rented for less than 30 days.
 - d. The ADU is restricted to the approved size.
 - e. The deed restriction runs with the land and may be enforced against future property owners.
 - f. The deed restriction may be removed if the owner eliminates the ADU as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of the LCP. If the ADU is not entirely physically removed, but is only eliminated by virtue of having a necessary component of an ADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this LCP.

- g. The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU in violation of the recorded restrictions or abatement of the illegal unit.

H. ADU Development Standards. The following development standards apply to ADUs. All requirements of the Malibu LIP that are consistent with the criteria listed below shall remain in effect. If there is a conflict between the standards of this Section 3.10(G) and standards that protect coastal resources, the requirements which are most protective of coastal resources shall prevail.

1. Size.

- a. The minimum square footage of an ADU shall be 400 square feet and the maximum square footage of an ADU shall be 1,200 square feet. The maximum square footage shall include interior and exterior walls, finished and unfinished basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. For purposes of total development square footage (TDSF), the size of an ADU shall be consistent with 3.6(K). The area of a garage (400 square feet maximum) provided as part of ADU and exterior decks or overhangs that are attached to the structure shall not be included in the 1,200 square foot limit. The maximum square footage of the ADU, garage, and other attached structures that are otherwise considered TDSF shall be included in the overall TDSF for the lot.
- b. An ADU that is attached to the primary dwelling is limited to 50 percent of the living area of the existing primary dwelling or 1,200 square feet, whichever is less.
- c. Application of TDSF, impermeable coverage, and other development standards may further limit the size of the ADU.
- d. The maximum size of an ADU in a converted existing detached accessory structure or primary dwelling shall not exceed the size limits provided in the other paragraphs of this subsection G(1).

2. Height

- a. No ADU may exceed 16 feet in height above grade as measured from existing or finished grade, whichever results in the lower building height.
- b. Pursuant to Section 13.27 of the Malibu LIP (Site Plan Review), the Director may allow heights up to 24 feet. In no event shall the maximum number of stories above grade be greater than two.

- c. When a legally established accessory structure is demolished and replaced with a new structure for the purposes of creating an ADU, the replacement structure may not exceed 16 feet in height.
- 3. Setbacks.
 - a. All ADUs remain subject to the setback standards in Section 3.6(F) and (G), as applicable including when a legally established accessory structure is demolished and is replaced with a new structure for the purposes of creating an ADU.
 - b. Pursuant to Section 13.27 of the Malibu LIP, the Director may grant minor modification permits to reduce setback requirements.
- 4. Passageway. No passageway, as defined in Section 2.1, is required for an ADU.
- 5. Parking.
 - a. One off-street parking space is required for each ADU. The parking space may be enclosed or unenclosed. Unenclosed parking spaces may be provided in setback areas or as tandem parking, as defined in Section 2.1, except where it is not feasible based on specific site topographic or fire and life safety conditions, and where it would violate an ESHA protection or scenic view corridor requirement.
 - b. An ADU may include a garage not to exceed four hundred (400) square feet.
 - c. For a garage, carport, or covered parking structure that is converted to an ADU, onsite replacement parking spaces shall be required that comply with the minimum number of spaces and dimensions stated in LIP 3.14.3.
- 6. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except for a garage which serves the ADU.

CHAPTER 13—COASTAL DEVELOPMENT PERMITS

No changes to 13.1 through 13.3

13.4. EXEMPTIONS FROM AND DE MINIMIS WAIVERS OF COASTAL DEVELOPMENT PERMIT

The projects described in Sections 13.4.1 through 13.4.9 are exempt from the requirement to obtain a Coastal Development Permit and subject to the requirements of Section 13.4.10. Section 13.4.11 describes general requirements for de minimis waivers and projects eligible for de minimis waivers.

13.4.1 Exemption for Improvements to Existing Single-Family Residences

- A. Improvements to existing single-family residences except as noted below in (B). For purposes of this section, the terms “Improvements to existing single-family residences” includes all fixtures and structures directly attached to the residence and those structures normally associated with a single-family residence, such as garages, swimming pools, fences, storage sheds and landscaping but specifically not including guest houses or ~~accessory self-contained residential units~~ accessory dwelling units.
- B. The exemption in (A) above shall not apply to the following classes of development which require a coastal development permit because they involve a risk of adverse environmental impact:
1. Improvements to a single-family structure if the structure or improvement is located: on a beach, in a wetland, seaward of the mean high tide line, in an environmentally sensitive habitat area, or within 50 feet of the edge of a coastal bluff.
 2. Any significant alteration of land forms including removal or placement of vegetation, on a beach, wetland, or sand dune, or within 50 feet of the edge of a coastal bluff, or in environmentally sensitive habitat areas.
 3. The expansion or construction of water wells or septic systems.
 4. On property not included in subsection (B)(1) above that is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated by the City or Coastal Commission, improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure or an additional improvement of 10 percent or less where an improvement to the structure had previously been undertaken pursuant to this section or Public Resources Code section 30610(a), increase in height by more than 10 percent of an existing structure and/or any significant non-attached structure such as garages, fences, shoreline protective works or docks.
 5. In areas which the City or Coastal Commission has previously declared by resolution after public hearing to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development not essential to residential use including but not limited to swimming pools, or the construction or extension of any landscaping irrigation system.
 6. Any improvement to a single-family residence where the development permit issued for the original structure by the Coastal Commission, regional Coastal Commission, or City indicated that any future improvements would require a development permit.

13.4.3 Exemption for Other Improvements

- A. Improvements to any structure other than a single-family residence or a public works facility except as noted below in Section 13.4.3 (B) of the Malibu LIP. For purposes of this section, where there is an existing structure, other than a single-family residence or public works facility, the following shall be considered a part of that structure:
1. All fixtures and other structures directly attached to the structure.
 2. Landscaping on the lot.
- B. The exemption in 13.4.3 (A) above shall not apply to the following classes of development which require a coastal development permit because they involve a risk of adverse environmental effect, adversely affect public access, or involve a change in use contrary to the policies of the LCP.
1. Improvement to any structure if the structure or the improvement is located: on a beach; in a wetland, stream, or lake; seaward of the mean high tide line; or within 50 feet of the edge of a coastal bluff;
 2. Any significant alteration of land forms including removal or placement of vegetation, on a beach or sand dune; in a wetland or stream; within 100 feet of the edge of a coastal bluff, or in an environmentally sensitive habitat area;
 3. The expansion or construction of water wells or septic systems;
 4. On property not included in subsection 13.4.3 (B)(1) of the Malibu LIP above that is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resource areas as designated by the LUP, an improvement that would result in an increase of 10 percent or more of internal floor area of the existing structure, or constitute an additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to section (A) above or [Public Resources Code](#) section 30610(b), and/or increase in height by more than 10 percent of an existing structure;
 5. In areas which the City or the Coastal Commission has previously declared by resolution after public hearing to have a critically short water supply that must be maintained for protection of coastal recreation or public recreational use, the construction of any specified major water using development including but not limited to swimming pools or the construction or extension of any landscaping irrigation system;
 6. Any improvement to a structure where the coastal development permit issued for the original structure by the City or the Coastal Commission indicated that any future improvements would require a development permit;
 7. Any improvement to a structure which changes the intensity of use of the structure;

8. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including but not limited to a condominium conversion, stock cooperative conversion or motel/hotel timesharing conversion.

13.11. PUBLIC HEARING REQUIRED AND PUBLIC COMMENT

- A. At least one public hearing shall be required on all appealable development as defined in Chapter 2 of the Malibu LIP (Definitions), except for accessory dwelling units, in accordance with Section 3.10 unless the accessory dwelling unit is developed concurrent with a new single-family dwelling.
1. Such hearing shall occur no earlier than seven (7) calendar days following the mailing of the notice required in Section 13.12 of the Malibu LIP. The public hearing may be conducted in accordance with existing City procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing.
 2. If a decision on a development permit is continued by the City to a time which is neither (a) previously stated in the notice provided pursuant to Section 13.12 of the Malibu LIP, nor (b) announced at the hearing as being continued to a time certain, the local government shall provide notice of the further hearings (or action on the proposed development) in the same manner, and within the same time limits as established in Section 13565 of the California Code of Regulations.
- B. Any person may submit written comments to the Planning ~~Director Manager~~ on an application for a Coastal Development Permit, or on an appeal of a Coastal Development Permit, at any time prior to the close of the public hearing. If no public hearing is required, written comments may be submitted prior to the decision date specified in the public notice. Written comments shall be submitted to the Planning ~~Director Manager~~ who shall forward them to the appropriate person, commission, board or the Council and to the applicant. (Ord. 303 § 3, 2007)

13.13. ADMINISTRATIVE PERMITS

13.13.1 Applicability

- A. The Planning ~~Director~~ ~~Manager~~ may process consistent with the procedures in this Chapter any coastal development permit application for the specific uses identified below, except a proposed coastal development permit that is appealable or is within the Commission's continuing jurisdiction as defined in Chapter 2 of the Malibu LIP (Definitions).
1. Improvements to any existing structure;
 2. Any single-family dwelling;
 3. Lot mergers;
 4. Any development of four dwelling units or less that does not require demolition, and any other developments not in excess of one hundred thousand dollars (\$100,000) other than any division of land;
 5. Water wells.
- B. Notwithstanding any other provisions of the LCP, ~~attached or detached accessory second dwelling units created in accordance with Section 3.10~~ shall be processed as administrative permits, The approval of such permits shall be appealable to the Coastal Commission if the project is located in the appealable zone. (Ord. 335 § 3, 2009; Ord. 303 § 3, 2007)

NOTE: Changes are proposed for the Residential land use category only as noted below. No changes are proposed for the other land use categories.

Appendix 1 TABLE B PERMITTED USES

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
	Permitted use
MCUP	Requires the approval of a minor Conditional Use Permit by the Director
CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility
STR	Use requires valid short-term rental permit approved by the City
	Not permitted (Prohibited)

USE	RR	SF	MF	MFBF	MHR	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RV	P
RESIDENTIAL																	
Single-family residential ¹	P	P	P	P	.	.	.	.	.	.	.	.	.	A	.	.	.
Manufactured homes	P	P	P	P	.	.	.	.	.	.	.	.	.	.	.	.	.
Multiple-family residential (including duplexes, condominiums, stock cooperatives, apartments, and similar developments)	.	.	CUP ¹⁹	CUP ¹⁹	.	.	.	.	.	.	.	.	.	.	.	.	.
<u>Second Accessory dwelling units</u>	A ²²	A ²²	A ²²	A ²²	.	.	.	.	.	.	.	.	.	.	.	.	.
Mobile home parks	.	.	.	.	P	.	.	.	.	.	.	.	.	.	.	.	.
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	.	.	.	.	CUP	.	.	.	.	.	.	.	.	.	.	.	.
Mobile home as residence during construction	P	P	P	MCUP	.	.	.	.	.	.	.	.	.	.	.	.	.
Accessory uses (guest <u>units</u> <u>house</u> , garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)	A ¹	A ¹	A ¹	A ¹	.	.	.	.	.	.	.	.	.	.	.	.	.
Residential care facilities (serving 6 or fewer persons)	P	P	P	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Large residential care facilities (serving 7 or more person)	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Small residential care facilities (serving 6 or fewer persons)	P	P	P	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Single Room Occupancy Facility	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Small family day care (serving 6 or fewer persons)	A	A	A	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Large family day care (serving 7 to 12 persons)	LFDC	LFDC	LFDC	.	.	.	.	.	.	.	.	.	.	.	.	.	.
Home occupations	P/ MCUP ²	P/ MCUP ²	P/ MCUP ²	P/ MCUP ²	.	.	.	.	.	.	.	.	.	.	.	.	.
Short-term rental	STR ²¹	STR ²¹	STR ²¹	STR ²¹	STR ²¹	.	.	.	.	.	.	.	.	.	.	.	.

Notes:

1. Subject to Residential Development Standards (Section 3.6).
2. Subject to Home Occupations Standards [(Section 3.6(O))].

3. Use Prohibited in Environmentally Sensitive Habitat Areas.
4. This commercial use may be permitted only if at least 50% of the total floor area of the project is devoted to visitor serving commercial use. This floor area requirement shall not apply to the Civic Center Wastewater Treatment Facility.
5. CUP for veterinary hospitals.
6. Maximum interior occupancy of 125 persons.
7. If exceeding interior occupancy of 125 persons.
8. By hand only.
9. Use permitted only if available to general public.
10. Charitable, philanthropic, or educational non-profit activities shall be limited to permanent uses that occur within an enclosed building.
11. Sports field lighting shall be limited to the main sports field at Malibu High School and subject to the standards of LIP Sections 4.6.2 and 6.5(G).
12. Limited to public agency use only (not for private use).
13. Accessory uses when part of an educational or non-profit (non-commercial) use. However, residential care facilities for the elderly are limited to operation by a non-profit only.
14. CUP for facilities within a side or rear yard when adjacent to a residentially-zoned parcel.
15. Conditionally permitted only when facilities are ancillary to the Civic Center Wastewater Treatment Facility, including, but not limited to, injection wells, generators, and pump stations.
16. This use is conditionally permitted in the Civic Center Wastewater Treatment Facility Institutional Overlay District and only when associated with the existing wastewater treatment facility or with the Civic Center Wastewater Treatment Facility.
17. Transitional and supportive housing is permitted in the same manner as one single family residence and is subject to all the restrictions that apply to single family residential uses.
18. Transitional and supportive housing is permitted in the same manner as a multi-family residential use and is subject to all the restrictions that apply to multi-family residential uses.
19. Multi-family development associated with an affordable housing development project is permitted by right.
20. Multi-family development is only permitted in the CC zone if it is associated with an affordable housing development project within the Affordable Housing Overlay (APNs 4458-022-023 and 4458-022-024 only), in compliance with Section 3.4.5.
21. Single-family residence properties are limited to hosted short-term rental permits only; one dwelling unit in a duplex may be rented unhosted if the owner or designated operator lives onsite in the other dwelling unit during the rental period; and for multifamily properties, a maximum of two dwelling units per parcel, or 40%, whichever is less, may be devoted to short-term rental use.

22. Subject to Accessory Development Standards (Section 3.10).

Title 17
ZONING

Chapters:

17.02 Introductory Provisions and Definitions

17.06 Zoning Districts Established

17.08 RR Rural Residential District

17.10 SF Single Family Density Residential District

17.12 MF Multiple Family Residential District

17.14 MFBF Multifamily Beach Front District

17.39 Malibu Coast Estate Planned Development (PD) District

17.40 Property Development and Design Standards

17.44 Accessory Dwelling Units

17.45 Citywide View Preservation and Restoration

Chapter 17.02

INTRODUCTORY PROVISIONS AND DEFINITIONS

Sections:

17.02.060 Definitions.

As used in this title:

~~“Kitchen” means a room or space within a building intended to be used for the cooking and preparation of food.~~

“Kitchen” means an area within a structure that is used or designed to be used for the preparation or cooking of food and that contains each of the following:

1. A cooking facility with appliances including, but not limited to: ovens, convection ovens, stoves, stove tops, built-in grills or similar appliances.
2. A food preparation counter or counters that total at least 15 square feet in area.
3. Food storage cabinets that total at least 30 square feet of shelf space

“Living area” means the interior habitable area of a dwelling unit, including finished basements and or attics but does not include unfinished basements or attics, rooms with floor to ceiling heights less than 6 feet, with a garages or accessory structures.

“Multi-family residence” means a building or portion thereof used for occupancy by ~~three~~ two or more families living independently of each other and containing two ~~three~~ or more dwelling units. This does not apply to a primary residence and an ADU or guest house on the same parcel.

~~“Second unit” means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single family dwelling is situated.~~

“Wet Bar” means a single sink and refrigerator no greater than 5 cubic feet in size with cabinets and/or counter top area not exceeding 6 lineal feet. A wet bar shall not include a refrigerator in excess of 5 cubic feet in size or a kitchen sink greater than 2 square feet in size, or a gas or electric range, stove top and/or oven (but may include a microwave oven).

Chapter 17.08

RR RURAL RESIDENTIAL DISTRICT

Sections:

17.08.020 Permitted uses.

The following uses and structures are permitted in the RR district:

- A. One single-family residence per lot;
- B. Small family day care and residential care facilities serving six or fewer persons;
- C. Accessory uses and structures as follows:
 1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, guest ~~units—houses seven hundred fifty (750 square feet maximum in accordance with Section 17.40.040(A)(21),~~ detached garages, barns, pool houses, gazebos, storage sheds, and greenhouses (noncommercial),
 2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and corrals,
 3. Domestic animals, kept as pets or for personal use,
 4. Raising of crops including, but not limited to, field, trees, bush, berry row and nursery stock, provided there is no retail sale from the premises,
 5. Raising of horses, sheep, goats, donkeys, mules and other equine cattle for personal use by residents on the premises, subject to the following conditions:
 - a. The subject property is a minimum of fifteen thousand (15,000) square feet in size,
 - b. The maximum number of animals listed above does not exceed one animal (over six months of age) for every five thousand (5,000) square feet of lot area,
 - c. The animals shall be maintained in an area a minimum of fifty (50) feet from any building used for human habitation;
- D. The following agricultural uses; provided, that all buildings or structures used in conjunction therewith shall be located not less than fifty (50) feet from any street or highway or any building used for human habitation:
 1. The raising of horses and other equine, cattle, sheep and goats, including the breeding and training of such animals, on a parcel having an area of not less than one acre and provided that not more than eight such animals per acre of the total ground area be kept or maintained in conjunction with such use,
 2. The grazing of cattle, horses, sheep or goats on a parcel with an area of not less than five acres, including the supplemental feeding of such animals, provided:
 - a. That such grazing is not a part of nor conducted in conjunction with any dairy, livestock feed yard, livestock sales yard or commercial riding academy located on the same premises,
 - b. That no buildings, structures, pens or corrals designed or intended to be used for the housing or concentrated feeding of such stock be used on the premises for such grazing other than racks for supplementary feeding, troughs for watering, or incidental fencing,
 3. Raising of poultry, fowl, birds, rabbits, fish, bees and other animals of comparable nature, provided the subject parcel is a minimum of one acre in size,
 4. The raising of hogs or pigs, provided:

- a. That the animals are located not less than one hundred fifty (150) feet from any highway and not less than fifty (50) feet from the side or rear lines of any parcel,
- b. That the animals shall not be fed any market refuse or similar imported ingredient or anything other than table refuse from meals consumed on the same parcel of land, or grain,
- c. That no more than two weaned hogs or pigs are kept,
- d. That the subject parcel is a minimum of one acre in size;
- E. Manufactured homes, pursuant to Government Code Section 65852.3;
- F. ~~Second units, pursuant to Government Code Section 65852.2;~~ Accessory dwelling units in accordance with Chapter 17.44;
- G. Large family day care facilities (serving seven to twelve (12) persons), subject to the provisions of Section 17.66.110;
- H. Private equestrian and/or hiking trails;
- I. Greenhouses on a lot or parcel of land having an area of at least one acre;
- J. Temporary placement of mobilehomes and trailers subject to the conditions of Section 17.40.040(A)(18). (Ord. 104 § 2, 1993; Ord. 93 §§ 8, 9, 1993; Ord. 86 § 3, 1993; prior code § 9211)

Chapter 17.10

SF SINGLE FAMILY DENSITY RESIDENTIAL DISTRICT

Sections:

17.10.020 Permitted uses.

The following uses and structures are permitted in the SF district:

- A. One single-family residence per lot;
- B. Small family day care and residential care facilities serving six or fewer persons;
- C. Accessory uses and structures as follows:
 1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, detached garages, barns, pool houses, gazebos, storage sheds, guest ~~units~~ houses ~~(seven hundred fifty (750) square feet maximum)~~ in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial);
 2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and noncommercial corrals;
 3. Domestic animals;
 4. Raising of crops including, but not limited to, field, trees, bush, berry row and nursery stock, provided there is no retail sale from the premises;
 5. Raising of horses, sheep, goats, donkeys, mules and other equine cattle for personal use by residents on the premises, subject to the following conditions:
 - a. The subject property is a minimum of fifteen thousand (15,000) square feet in size;
 - b. The maximum number of animals listed above does not exceed one animal (over six months of age) for every five thousand (5,000) square feet of lot area;
 - c. The animals shall be maintained in an area a minimum of fifty (50) feet from any building used for human habitation;
 - D. Manufactured homes, pursuant to Government Code Section 65852.3;
 - E. ~~Second units, pursuant to Government Code Section 65852.2;~~ Accessory dwelling units in accordance with Chapter 17.44;
 - F. Large family day care facilities (serving seven to twelve (12) persons), subject to Section 17.66.110;
 - G. Temporary placement of mobilehomes and trailers subject to the conditions of Section 17.40.040(A)(18). (Ord. 104 § 2, 1993; Ord. 86 § 3, 1993; prior code § 9221)

Chapter 17.12

MF MULTIPLE FAMILY RESIDENTIAL DISTRICT

Sections:

17.12.020 Permitted uses.

The following uses and structures are permitted in the MF district:

- A. One single-family residence per lot;
- B. Small family day care and residential care facilities involving six or fewer persons;
- C. Accessory uses and structures as follows:
 - 1. Accessory buildings customarily ancillary to single-family residences including, but not limited to, detached garages, barns, pool houses, gazebos, storage sheds, guest ~~units~~ houses ~~(seven hundred fifty (750) square feet maximum)~~ in accordance with Section 17.40.040(A)(21), and greenhouses (noncommercial);
 - 2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts, and corrals;
 - 3. Domestic animals;
- D. Manufactured homes, pursuant to Government Code Section 65852.3;
- E. ~~Second units, pursuant to Government Code Section 65852.2;~~ Accessory dwelling units in accordance with Chapter 17.44;
- F. Large family day care facilities (serving seven to twelve (12) persons), subject to Section 17.66.110;
- G. Temporary placement of mobilehomes and trailers subject to the conditions of Section 17.40.040(A)(18). (Ord. 104 § 2, 1993; Ord. 86 § 3, 1993; prior code § 9231)

Chapter 17.14

MFBF MULTIFAMILY BEACH FRONT DISTRICT

Sections:

17.14.020 Permitted uses.

The following uses and structures are permitted in the MFBF district:

- A. One single-family residence per lot;
- B. Expansion up to five hundred (500) square feet of existing multifamily buildings provided the expansion conforms to the provisions of Chapter 17.40;
- C. Accessory uses and structures as follows:
 - 1. Accessory buildings customarily ancillary to single-family and multifamily residences including, but not limited to, detached garages, pool houses, gazebos, storage sheds, guest ~~units~~ houses ~~(seven hundred fifty (750) square feet maximum)~~ in accordance with Section 17.40.040(A)(21).
 - 2. Recreational structures including, but not limited to, pools, spas, nonilluminated sports courts,
 - 3. Domestic animals;
 - D. Manufactured homes, pursuant to Government Code Section 65852.3;
 - E. ~~Second units, pursuant to Government Code Section 65852.2. (Ord. 151 § 11, 1996; prior code § 92362)~~ Accessory dwelling units in accordance with Chapter 17.44.

Chapter 17.39

MALIBU COAST ESTATE PLANNED DEVELOPMENT (PD) DISTRICT

Sections:

17.39.020 Permitted uses.

17.39.040 Property development and design standards.

17.39.020 Permitted uses.

Lot numbers are as identified on Malibu Coast Estate Planned Development Map 1. The following uses and structures are permitted:

A. Lot Nos. 1—5.

1. One single-family residence per lot.

2. Accessory uses (~~one second unit or~~ guest house ~~per lot~~ in accordance with Section 17.40.040(A)(21), garages, swimming pools, spas, pool houses, cabanas, water features, gazebos, storage sheds, private non-illuminated sports courts, noncommercial greenhouses, gated driveways, workshops, gyms, home studios, home offices, and reasonably similar uses normally associated with a single-family residence, as determined by the planning director).

3. Accessory dwelling units in accordance with Chapter 17.44.

4. Domestic animals, kept as pets.

5. Landscaping.

B. Lot No. 6. Uses and structures maintained by either the owners of Lots 1—5 or the homeowners' association formed to serve the residential development within Malibu Coast Estate, including a guard house, private access road, gates (including entry gates), fencing, visitor parking, landscaping, guardhouse parking, community utilities, informational and directional signage, private open space, lighting and wastewater treatment facilities serving uses within Malibu Coast Estate.

C. Lot No. 7.

1. Parks and public open space, excluding community centers.

2. Active and passive public recreational facilities, such as ball fields, skate parks, picnic areas, playgrounds, walkways, restrooms, scoreboard, sport court fencing, parking lots, and reasonably similar uses as determined by the planning director. Night lighting of recreational facilities shall be prohibited, except for the minimum lighting necessary for public safety.

3. Onsite wastewater treatment facilities. (Ord. 398 § 6, 2015)

17.39.040 Property development and design standards.

The following development standards shall replace the corresponding development standards (Sections 17.40.040 and 17.40.080) for Malibu Coast Estate. All requirements of the zoning ordinance, including, but not limited to, Section 17.40.030 that are consistent with the criteria listed below shall remain in effect for those parcels in Malibu Coast Estate.

A. Lot Nos. 1—5.

1. Development Footprint and Structure Size (Replaces corresponding standards in LIP Section 3.6(K)).

a. The total development square footage (TDSF) on each of Lot Nos. 1—5 shall not exceed the following square footage per lot:

Lot 1 —10,052 square feet.

Lot 2 —9,642 square feet.

Lot 3 —9,434 square feet.

Lot 4 —9,513 square feet.

Lot 5 —10,990 square feet.

b. Combinations of Basements, Cellars and/or Subterranean Garages. If any combination of basements, cellars, and/or subterranean garages is proposed, the initial one thousand (1,000) square feet of the combined area shall not count toward TDSF. Any additional area in excess of one thousand (1,000) square feet shall be included in the calculation of TDSF at ratio of one square foot for every two square feet proposed.

c. Covered areas, such as covered patios, eaves, and awnings that project up to six feet from the exterior wall of the structure shall not count toward TDSF; if the covered areas project more than six feet, the entire covered area (including the area within the six-foot projection) shall be included in TDSF.

d. The development footprint on each lot (Lot Nos. 1—5) shall substantially conform to that indicated on Malibu Coast Estate Planned Development Map 1. Structures on Lot 5 shall be set back a minimum of one hundred ninety (190) feet from the edge of the bluff as identified on Malibu Coast Estate Planned Development Map 1 in order to ensure that impacts to public views of the eastern Malibu coastline as seen from Malibu Bluffs Park are minimized. The structural setback on Lot 5 does not apply to at-grade improvements or low profile above-grade improvements for accessory uses not to exceed ten (10) feet in height.

2. Setbacks (Replaces corresponding standards in Section 17.40.040).

a. Front yard setbacks shall be at least twenty (20) percent of the total depth of the lot measured from the property line abutting the street, or sixty-five (65) feet, whichever is less. However, the front yard setback for Lot 5 shall be at least forty-three (43) feet.

b. Side yard setbacks shall be cumulatively at least twenty-five (25) percent of the total width of the lot but, in no event, shall a single side yard setback be less than ten (10) percent of the width of the lot.

c. Rear yard setbacks shall be at least fifteen (15) percent of the lot depth.

d. Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.

3. Structure Height (Replaces corresponding standards in Section 17.40.040).

a. Every residence and every other building or structure associated with a residential development (excluding chimneys), including satellite dish antenna, solar panels and rooftop equipment, shall not be higher than eighteen (18) feet, except the easternmost approximately two thousand five hundred (2,500) square feet of the residence on Lot 2 and the southwestern corner of the residence on Lot 5 shall not be higher than fifteen (15) feet, as indicated on Malibu Coast Estate Planned Development Map 1 of the LIP. Height is measured from natural or finished grade, whichever is lower.

b. Mechanical equipment, including screens may not exceed roof height. Roof-mounted mechanical equipment shall be integrated into the roof design and screened.

c. In no event shall the maximum number of stories above grade be greater than two. Basements and subterranean garages shall not be considered a story.

4. Grading (Replaces corresponding standards in Section 17.40.040).
 - a. Notwithstanding other provisions of this code, all grading associated with the berm, ingress, egress, including safety access, shall be considered exempt grading.
 - b. Non-exempt grading shall be limited to two thousand (2,000) cubic yards per lot.
 - c. Net export shall be limited to three thousand five hundred (3,500) cubic yards per lot.
5. Impermeable Coverage, Landscaping, and Berm.
 - a. The impermeable coverage requirement in Section 17.40.040 shall apply.
 - b. In addition to the requirements of Section 17.40.040, site landscaping shall be designed to minimize views of the approved structures as seen from public viewing areas, including the use of native trees to screen approved structures. Landscaping and trees shall be selected, sited, and maintained to not exceed twenty-five (25) feet.
 - c. A natural-looking earthen berm that is four feet in height (except for the northernmost thirty (30) foot long portion on Lot 1 that shall be no less than two feet in height) above finished grade shall be constructed along the east side of all approved structures on Lots 1 and 2 to minimize views of the development from downcoast public viewing locations. The location and height of the berm shall substantially conform to that indicated on the Malibu Coast Estate Planned Development Map 1 of the LIP. The berm shall be vegetated with lower-lying native species that blend with the natural bluff landscape.
6. Parking (In addition to the parking standards of Section 17.40.040).
 - a. Two enclosed and two unenclosed parking spaces. The minimum size for a residential parking space shall be eighteen (18) feet long by ten (10) feet wide.
 - b. For a guest house see Section 17.40.040(A)(21). ~~One enclosed or unenclosed parking space for a guest unit or second unit.~~
 - c. For an accessory dwelling unit see Chapter 17.44.
7. Colors and Lighting (In addition to the standards of LIP Section 6.5(B)).
 - a. Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the planning director prior to issuance of a building permit. All windows shall be comprised of non-glare glass.
 - b. Lighting must comply with LIP Section 6.5(G).
8. Permit Required. To ensure the protection of scenic and visual resources in accordance with the provisions of the LCP, any future improvements to structures or significant changes to landscaping beyond that authorized by the coastal development permit (CDP) for each residential lot (Lots 1—5), which would ordinarily be exempt from a CDP pursuant to LIP Section 13.4.1, shall be subject to a new CDP or permit amendment.
 - B. Lot No. 6.
 1. Structure Size. The total development square footage of all structures shall not exceed one hundred eighty (180) square feet. The development footprint (gate and guardhouse) shall substantially conform to that indicated on Malibu Coast Estate Planned Development Map 1.
 2. Setbacks.
 - a. Buildings, not including projections permitted in Section 17.40.050, shall maintain a minimum setback of fifty (50) feet from all property lines.
 - b. Parkland setbacks in LIP Section 3.6(F)(6) shall not apply.
 3. Structure Height.

- a. Structure height shall not exceed twelve (12) feet, as measured from natural or finished grade, whichever is lower.
- b. In no event shall the maximum number of stories above grade be greater than one.
- c. A basement, cellar or subterranean garage shall not be permitted.
- 4. Grading (Replaces corresponding standards in Section 17.40.040).
 - a. Notwithstanding other provisions of this code, all grading associated with ingress, egress, including safety access, shall be considered exempt grading.
 - b. Non-exempt grading shall be limited to one thousand (1,000) cubic yards.
 - c. Net export shall be limited to two thousand five hundred (2,500) cubic yards.
- 5. Impermeable Coverage (Replaces corresponding standard in Section 17.40.040). The impermeable coverage requirement in Section 17.40.040 shall not apply. Up to forty-four thousand (44,000) square feet of impermeable coverage shall be permitted.
- 6. Parking (In addition to the parking standards of Section 17.40.040). The guardhouse shall not have more than two parking spaces to be used for on duty guards and one additional parking space for service parking. Parking within the property boundaries shall not be located on or obstruct fire department access.
- 7. Colors and Lighting.
 - a. Structures shall be limited to colors compatible with the surrounding environment and landscape (earth tones), including shades of green, brown, and gray with no white or light or bright tones. The color palette shall be specified on plans submitted in building plan check and must be approved by the planning director prior to issuance of a building permit.
 - b. Lighting must comply with LIP Section 6.5(G).
- C. Lot No. 7.
 - 1. Site Design. Grading, setbacks, and facility siting shall be designed to meet the operational programs of the park as defined in the City of Malibu Parks Master Plan. Notwithstanding any other provision of this chapter, grading in all new parks shall be limited to not more than one thousand (1,000) cubic yards per acre, except that grading required for sports fields and skate parks designed to accommodate commonly accepted facility dimensions shall be exempt from these limitations. The facility shall be designed to minimize noise, lighting impacts and disruption to nearby residents.
 - 2. Parking (In addition to the parking standards of Section 17.47.030). Adequate parking shall be provided to serve the proposed recreational uses. Parking shall be determined by a parking study prepared by a registered traffic engineer and based upon the proposed recreational uses. The planning director shall have the authority to determine the appropriateness of studies or other information used in determining the parking to be required. Where appropriate, off-site parking may be provided and may be counted towards satisfying the on-site parking requirement as long as sufficient parking is provided to serve existing and proposed public access and recreation uses and any adverse impacts to public access and recreation are avoided.
 - 3. Fencing. With the exception of skate park and sport court fencing and backstops, fences and walls shall not exceed eight feet in height. The fencing and backstops design and materials shall take into consideration view and vista areas, site distance, and environmental constraints.
 - 4. Temporary Uses. Temporary uses shall be in accordance with LIP Section 13.4.9 and the temporary use permit process contained within Chapter 17.68. (Ord. 398 § 6, 2015)

Chapter 17.40

PROPERTY DEVELOPMENT AND DESIGN STANDARDS

Section 17.40.040(A)

21. Guest Houses

- a. Development of a guest house shall require that a primary dwelling unit be developed on the lot prior to or concurrent with the guest house.
- b. Only one guest house is allowed per lot. Guest houses are not allowed on properties with an attached or detached accessory dwelling unit.
- c. Development Standards

- 1. Siting. Any permitted guest house shall be located within the approved development area for the project site and shall be clustered with the primary dwelling unit and any other approved structures to minimize required fuel modification. All guest houses must comply with residential development standards in Section 17.40.040.
- 2. Maximum Size. The maximum square footage of a guest house shall not exceed 900 square feet. The maximum square footage shall include interior and exterior walls, finished and unfinished basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage provided as part of the guest house, exterior decks, covered patios, or overhangs that are attached to the structure shall not be included in the 900 square foot limit. The maximum square footage of a guest house, garage, and any other attached structures that are otherwise considered total development square footage shall be included in the overall total development square footage for the lot.
- 3. A 10-foot separation between the guest house and any other structure shall be maintained if the parcel is within a Very High Fire Hazard Severity Zone.

d. Parking

- 1. A minimum of one onsite enclosed or unenclosed parking space shall be provided for the exclusive use of a guest house.
- 2. One garage, attached and solely used for the guest house not to exceed 400 square feet in size may be permitted as part of a guest house.

Chapter 17.44 - ACCESSORY DWELLING UNITS

17.44.010 Title.

This chapter shall be known as the “Malibu Accessory Dwelling Unit Ordinance.”

17.44.020 Purpose.

The purpose of this chapter is to allow and regulate accessory dwelling units (ADUs) and Junior accessory dwelling units (JADUs) in compliance with California Government Code Sections 65852.2 and 65852.22. The entire City of Malibu is located in a designated “Very High Fire Hazard Severity Zone”, and this chapter ensures that ADUs and JADUs are developed and operated on adequate sites, at proper and desirable locations, and that the goals and objectives of the General Plan are observed.

17.44.030 Effect of Conforming.

An ADU or JADU that conforms to the standards in this chapter will be:

- A. Deemed to be consistent with the City’s General Plan and zoning designation for the lot on which the ADU or JADU is located.
- B. Deemed not to exceed the allowable density for the lot on which the ADU or JADU is located.
- C. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.
- D. Permitted to maintain a nonconforming zoning condition. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.1.

17.44.040 Definitions.

“Accessory Dwelling Unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

- 1. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code and the California Building Code; and
- 2. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

“Junior Accessory Dwelling Unit” means a residential unit that

- 1. is no more than 500 square feet in size;

2. is contained entirely within an existing or proposed single-family structure; an enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;
3. has an independent exterior entrance, apart from that of the primary dwelling;
4. includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure; and
5. includes an efficiency kitchen.

“Efficiency kitchen” means a kitchen that includes all of the following:

1. A cooking facility with appliances.
2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

“Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit or junior accessory dwelling unit.

“Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

“Public transit” means a location, including, but not limited to, a bus stop, where the public may access buses and other forms of transportation that charges set fares, run on fixed routes, and available to the public.

17.44.050 Permitted Locations.

A. ADUS and JADUs under Section 17.44.060(A) shall be allowed on lots that are in a residential or mixed-use zone.

B. ADUs under Section 17.44.060(B) shall be allowed on lots zoned to allow single-family or multi-family dwelling residential use. These zones include Rural Residential (RR), Single Family (SF), Multi-Family (MF), Multi-Family Beach Front (MFBF), and Planned Development (PD).

C. Areas with Adequate Ingress and Egress. Since the entire City is located within is located in a designated “Very High Fire Hazard Severity Zone,” consistent with Los Angeles County Fire Department requirements to ensure adequate ingress and egress for fire safety, a minimum street width of 20 feet shall be required. ADUs are not allowed on parcels that do not have ingress and egress to a street at least 20 feet in width.

D. Multifamily Lots. ADUs are allowed on multifamily lots pursuant to 17.44.060 A. 3 and A.4. New attached ADUs are not allowed.

17.44.060 Approvals.

The following approvals apply to ADUs and JADUs developed under this Chapter. Because the City of Malibu lies entirely within the Coastal Zone, every ADU application in the City is subject to an analysis for compliance with the Local Coastal Program (LCP) and Coastal Act before it is reviewed for compliance with this Chapter. If an application for an ADU is not subject to the LCP, then this Chapter governs. State law is explicit about the Coastal Act not being preempted by the State's ADU statute (Government Code Section 65852.2, subdivision (l).)

A. Building-Permit Only. If an ADU or JADU complies with each of the general requirements in section 17.44.080 below, it is allowed with only a building permit in the following scenarios:

1. Converted on Single-family Lot: One ADU as described in this subsection (A)(1) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:
 - a. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and
 - b. Has exterior access that is independent of that for the single-family dwelling; and
 - c. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.
 - d. The JADU complies with the requirements of Government Code Section 65852.22.
2. Limited Detached on Single-family Lot: One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (A)(1) above if the detached ADU satisfies each of the following limitations:
 - a. The side- and rear-yard setbacks are at least four feet.
 - b. The total floor area is 800 square feet or smaller.
 - c. The peak height above grade does not exceed the applicable height limit in subsection 17.44.090 (B) below.
3. Converted on Multifamily Lot: One or more ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection (A) (3) at least one converted ADU is allowed within an existing

multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.

4. Limited Detached on Multifamily Lot: No more than two detached ADUs on a lot that has an existing or proposed multifamily dwelling if each detached ADU satisfies both of the following limitations:

a. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.

b. The peak height above grade does not exceed the applicable height limit provided in subsection 17.44.090 (B) below.

B. Administrative Plan Review Permit (APR)

1. Except as allowed under subsection 17.44.060 (A), no ADU may be created without a building permit and an APR permit in compliance with the standards set forth in Sections 17.44.080 and 17.44.090.

2. The City may charge a fee to reimburse it for costs incurred in processing APR permits, including the costs of adopting or amending the City's ADU ordinance. The APR permit processing fee is determined by the City Council by resolution.

17.44.070 Process and Timing.

A. An APR is considered and approved ministerially by the Planning Director without discretionary review or a hearing.

B. The City must approve or deny an application to create an ADU or JADU within 60 days from the date that the City receives a complete application, unless either:

1. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or

2. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the city may delay acting on the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

C. If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection (B) above.

D. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

17.44.080 General ADU and JADU Requirements.

The following requirements apply to all ADUs and JADUs that are approved under Section 17.44.060.

- A. Rental Term. An ADU or JADU may not be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.
- B. Rental Rate Reporting. To facilitate the City's obligation to identify adequate sites in accordance with Government Code Sections 65583.1 and 65852.2, and to allow ADUs to count towards the City's Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each January 1 following issuance of the building permit, the owner shall report the actual rent charged for the ADU or JADU during the prior year.
- C. No Separate Conveyance. An ADU or JADU may be rented, but, except as otherwise provided in Government Code section 65852.26, no ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multi-family lot).
- D. Septic System. If the ADU or JADU will connect to an onsite water treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
- E. Fire Sprinklers.
 - 1. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.
 - 2. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
- F. Owner Occupancy.
 - 1. An ADU that is permitted after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.
 - 2. Unless applicable law requires otherwise, all ADUs that are permitted on or after January 1, 2025 are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.
 - 3. As required by State law, all JADUs are subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property.

in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, the owner-occupancy requirement of this paragraph does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.

G. Deed Restriction. Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the City and must provide that:

1. Except as otherwise provided in Government Code Section 65852.26, the ADU or JADU may not be sold separately from the primary dwelling.
2. The ADU or JADU must remain an ADU unless City approval is obtained to convert the structure to a different accessory structure.
3. An ADU or JADU created cannot be rented for less than 30 days.
4. The ADU or JADU is restricted to the approved size.
5. The JADU must be reconverted to be part of the primary residence if the owner does not reside on the property.
6. The deed restriction runs with the land and may be enforced against future property owners.
7. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.
8. The deed restriction is enforceable by the Director or his or her designee for the benefit of the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

H. Building and Safety.

1. Must comply with building code. Subject to subsection (H)(2) below, all ADUs and JADUs must comply with all local building code requirements.
2. No change of occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (H)(2) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section

I. Height.

1. No ADU subject to this Chapter may exceed 16 feet in height above grade, as measured from existing or finished legal grade, whichever results in the lower building height except as provided in subsection B.2. though B.5
2. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.
3. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.
4. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (B)(4) may not exceed two stories.

17.44.090 Specific ADU Requirements.

The following requirements apply only to ADUs that require an APR permit under Section 17.44.060(B) above.

A. Size

1. The maximum square footage of an ADU shall be 850 square feet for a studio or one bedroom and 1,000 square feet for two or more bedrooms. The maximum square footage shall include interior and exterior walls, finished and unfinished basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage (400 square feet maximum) provided as part of accessory dwelling unit and exterior decks or overhangs that are attached to the structure shall not be included in the 850 to 1,000 square foot limit.

2. An ADU that is attached to the primary dwelling is limited to 50 percent of the existing primary dwelling.
3. Application of other development standards in this Section 17.44.090 might further the limit the size of the ADU, but no application of an FAR, front-setback, lot-coverage, or open-space requirement may require the ADU to be less than 800 square feet.
4. By definition, a JADU may not be larger than 500 square feet.

B. Setbacks.

1. The front yard setback of an ADU located on a non-beach front lot, subject to this Section 17.44.090, shall be at least twenty (20) percent of the total depth of the lot, or sixty-five feet, whichever is less. On a beachfront lot, the front yard setback shall be twenty (20) feet maximum or the average of the two immediate neighbors, whichever is less.
2. No part of any ADU subject to this Section 17.44.090 may be located within four feet of a side or rear property line.
3. No additional setback is required for an ADU that is subject to this Section 17.44.090 if the ADU is constructed in the same location and to the same dimensions as an existing legally established accessory structure that was demolished and then replaced with the ADU.

C. Passageway. No passageway, as defined by Section 17.02.060, is required for an ADU.

D. Parking.

1. Generally. One off-street enclosed or unenclosed parking space is required for each ADU. Unenclosed parking spaces may be provided in setback areas or as tandem parking, as defined by Section 17.02.060.
2. Exceptions. No parking under subsection (E)(1) above is required in the following situations:
 - a. The ADU is located within one-half mile walking distance of public transit, as defined in Section 17.02.060.
 - b. The ADU is located within an architecturally and historically significant historic district.
 - c. The ADU is part of the proposed or existing primary residence or an existing accessory structure, under Section 17.44.060(A)(1).
 - d. When on-street parking permits are required but not offered to the occupant of the ADU.

- e. When there is an established car share vehicle stop located within one block of the ADU.
 - f. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (A) thru (F).
3. No Replacement of Parking Required. When a garage, carport, or covered parking structure is (a) demolished in conjunction with the construction of an ADU or (b) converted to an ADU, those off-street parking spaces are not required to be replaced. If replacement parking is proposed by the owner, the parking must be located on hardscape.
- F. Internal connection. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except to a legally established garage that serves the ADU.

17.44.100 Fees.

A. Impact Fees.

- 1. No impact fee shall be charged for an ADU that is less than 750 square feet in size.
- 2. Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit. (E.g., the square footage of the ADU, divided by the square footage of the primary dwelling, times the typical fee amount charged for a new dwelling.) “Impact fee” here does not include any connection fee or capacity charge for water or sewer service.
- 3. For purposes of this section 17.44.100, “impact fee” means a “fee” under the Mitigation Fee Act (Gov. Code § 66000(b)) and a fee under the Quimby Act (Gov. Code § 66477).

B. Utility Fees.

- 1. ADUs constructed with a single-family dwelling shall be subject to standard utility-connection requirements and fees.
- 2. Converted ADUs, created under 17.44.060(A)(1) are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required unless the ADU is constructed with a new single-family home.
- 3. All ADUs not covered by 17.44.100 (B)(1) or (B)(2) above require a new, separate utility connection directly between the ADU and the utility. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU, based on either the square footage or the number of drainage-fixtue units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system. The fee or charge may not exceed the reasonable cost of providing this service.

17.44.110 Nonconforming Zoning Code Conditions, Building Code Violations, and Unpermitted Structures.

- A. Generally. The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.
- B. Unpermitted ADUs constructed before 2018.
 - 1. Permit to Legalize. As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if denial is based on either of the following grounds:
 - a. The ADU violates applicable building standards, or
 - b. The ADU does not comply with the state ADU law (Government Code section 65852.2) or this ADU ordinance Chapter 17.44.
 - 2. Exceptions:
 - a. Notwithstanding subsection (B)(1) above the city may deny a permit to legalize an existing but unpermitted ADU that was constructed before January 1, 2018, if the city makes a finding that correcting a violation is necessary to protect the health and safety of the public or of occupants of the structure.
 - b. Subsection (B)(1) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code section 17920.3.

Chapter 17.45

CITYWIDE VIEW PRESERVATION AND RESTORATION*

Sections:

17.45.030 Definitions.

The following definitions shall apply for purposes of this chapter:

A. “Arbitration” means a voluntary legal procedure for settling disputes and leading to a determination of rights of parties, usually consisting of a hearing before an arbitrator where all relevant evidence may be freely admitted.

B. “Arbitrator” means a mutually agreed upon neutral third party professional intermediary who conducts a hearing process, and who hears testimony, considers evidence and makes decisions for the disputing parties.

C. “Certified arborist” means an individual certified as an arborist by the International Society of Arboriculture (ISA).

D. “Claimant” means a property owner who alleges that foliage is causing a significant obstruction of a primary view.

E. “Environmentally sensitive habitat areas or (ESHA)” as defined as set forth in the certified Malibu LCP Local Implementation Plan.

F. “Foliage” means a woody plant with the potential to obstruct primary views. “Foliage” includes without limitation trees, shrubs, hedges and bushes.

G. “Foliage owner” means a person owning property containing foliage that a claimant alleges is causing a significant obstruction of a protected view.

H. “Hedge” means any plant material, trees, stump growth, or shrubbery planted or grown in a dense continuous line, so as to form a thicket, barrier or the substantial equivalent of a living fence.

I. “Main viewing area” means the ground floor of a commercial, institutional or principal residential structure unless the ground floor of a commercial structure consists of garages, parking areas and storage and unless the primary living area of a principal residential structure is not located on the ground floor. If the ground floor of a commercial structure consists of garages, parking areas and storage, the “main viewing area” means the first habitable floor. If the primary living area of a principal residence is not located on the ground floor, the main viewing area means the primary living area of the principal residence. The “main viewing area” may be an abutting outdoor deck or patio area located at relatively the same elevation as the ground floor of a commercial or institutional structure or a primary living area of a residence, whichever has the superior view corridor. Bedrooms, master bedroom retreats, offices, hallways, closets, laundry rooms, mechanical rooms, bathrooms and garages shall not be considered main viewing areas. Application of a primary view corridor requires an established “main viewing area.”

J. “Mediation” means a process of using a neutral third person to facilitate a mutually satisfactory solution to a view dispute.

K. “Mediator” means a neutral third person that assists the claimant and foliage owner in finding a mutually satisfactory solution to a view dispute.

L. “Pre-existing view” means a primary view within the structure’s assessed primary view corridor that existed on the date of acquisition of the property or city incorporation, whichever

is more recent. If the property was acquired without a developed, legally-habitable structure, a pre-existing view shall mean a primary view that existed as of issuance of a certificate of occupancy or city incorporation, whichever is more recent. The pre-existing view cannot be a result of a natural disaster or a result of illegal activities.

M. “Primary living area” means the living room, family room, dining room, kitchen or a combination thereof.

N. “Primary view” means visually impressive scenes of the Pacific Ocean, offshore islands, the Santa Monica Mountains, canyons, valleys, or ravines, within a primary view corridor.

O. “Primary view corridor” means a one hundred eighty (180) degree view assessed by the planning director or designee from a single fixed location and direction within the main viewing area, at an elevation of five feet as measured from the room floor or on an abutting outdoor deck or patio at any one point within ten (10) feet of the nearest outside wall of the structure as selected by the affected property owner and the city.

P. “Primary view determination” means a process by which the planning director or designee documents the location of a claimant’s primary view corridor.

Q. “Principal residence” and “principal residential structure” mean the primary residential structure located on a lot. Guest houses, ~~granny flats and second units accessory dwelling units and junior accessory dwelling units~~ are not principal residences or principal residential structures.

R. “Protected tree” as defined in Section 5.2 of the Malibu Local Coastal Program Local Implementation Plan.

S. “Removal” means the destruction or displacement of foliage by cutting or other mechanical method that result in physical transportation of the foliage from its site and/or death of the foliage.

T. “Restorative action” means measures undertaken to eliminate a significant obstruction of a primary view.

U. “Stump growth” means new growth from the remaining portion of a tree trunk, the main portion of which has been cut off.

V. “View preservation permit” means a permit issued by the city, requiring restorative actions on foliage located on a foliage owner’s property in order to preserve a claimant’s primary view. (Ord. 378 § 3, 2014)

Appendix 1 PERMITTED USES TABLE*

In the event of a conflict between the table and the text of Title 17, the text shall control.

KEY TO TABLE (In addition to a coastal development permit, MCUP, CUP, LFDC, & WTF permits are required pursuant to the Malibu Municipal Code where shown in this table.)	
P	Permitted use
MCUP	Requires the approval of a minor Conditional Use Permit by the Director
CUP	Requires the approval of a Conditional Use Permit
A	Permitted only as an accessory use to an otherwise permitted use
LFDC	Requires the approval of a Large Family Day Care permit
WTF	Requires the approval of a Wireless Telecommunications Facility
STR	Use requires valid short-term rental permit approved by the City
•	Not permitted (Prohibited)

USE	RR	SF	MF	MFBF	MH	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Agricultural employee housing, as an accessory use, animal related	A	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•
Agricultural employee housing, as an accessory use, crop related	A	A	CUP	•	•	•	•	•	•	•	•	•	•	•	•	•
One single-family residence per lot ²⁸	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Manufactured homes pursuant to Government Code § 65852.3	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•
Multifamily residential (including duplexes, condominiums, stock cooperatives, apartments, and similar development ²⁹)	•	•	CUP ³⁰	CUP ^{2,30}	•	•	•	•	p ³¹	•	•	•	•	•	•	•
Second Accessory dwelling units pursuant to Government Code § 65852.2.	A ³³	A ³³	A ³³	A ³³	•	•	•	•	•	•	•	•	•	•	•	•

USE	RR	SF	MF	MFBF	MH	CR	BPO	CN	CC	CV-1	CV-2	CG	OS	I	PRF	RVP
Mobile home parks in existence as of March 28, 1991	•	•	•	•	P	•	•	•	•	•	•	•	•	•	•	•
Mobile home park accessory uses (including recreation facilities, meeting rooms, management offices, storage/maintenance buildings, and other similar uses)	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•	•
Mobile home park modifications to number, layout, or density and public or common areas, except for repair and maintenance	•	•	•	•	CUP	•	•	•	•	•	•	•	•	•	•	•
Temporary mobile home as residence subject to §17.40.040(A)(18)	P	P	P	MCUP	•	•	•	•	•	•	•	•	•	•	•	•
Accessory uses (guest unit house (750 900 sf max), garages, barns, pool houses, pools, spas, gazebos, storage sheds, greenhouses (non-commercial), sports courts (non-illuminated), corrals (non-commercial), and similar uses)	A	A	A	A ³	•	•	•	•	•	•	•	•	•	•	•	•

Notes:

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33. Subject to Chapter 17.44.- Accessory Dwelling Units.



City Of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265
Phone (310) 456-2489
www.malibucity.org

PLANNING DEPARTMENT
NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

The Malibu City Council will hold a public hearing on **Monday, August 28, 2023, at 6:30 p.m.** in the Council Chambers at Malibu City Hall, located at 23825 Stuart Ranch Road, Malibu, CA and via teleconference for the project identified below.

Public comment can be submitted ahead of the public hearing to citycouncil@malibucity.org for inclusion in the public record. To view and participate during the public hearing, please review the meeting agenda posted at MalibuCity.org/AgendaCenter and follow the directions for public participation.

ACCESSORY DWELLING UNIT ORDINANCE

LOCAL COASTAL PROGRAM AMENDMENT NO. 18-002 AND ZONING TEXT AMENDMENT NO. 18-004 - Consider an amendment to the Local Coastal Program (LCP) and Title 17 (Zoning) of the Malibu Municipal Code (MMC) modifying regulations pertaining to accessory dwelling units, also known as second dwelling units, to bring existing regulations into compliance with State law (Location: Citywide)

On March 14, 2023, the Planning Commission held a Special meeting and adopted Resolution No. 23-12, providing recommendations to City Council for an amendment to the LCP and Title 17 (Zoning) of the MMC in accordance with City Council direction on August 22, 2022.

In accordance with the CEQA, Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment (LCPA). This application is for an LCPA which must be certified by the California Coastal Commission before it takes effect. The ZTA and LCPA are not a project within the meaning of CEQA Guidelines Section 15378, because they have no potential to result in physical change to the environment, directly or indirectly. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility and is not subject to CEQA. Moreover, in the event that the code amendment and LCPA are interpreted so as to permit construction of an ADU on a particular site, the construction would be exempt from CEQA review in accordance with either State CEQA Guidelines Section 15301 (existing facilities), State CEQA Guidelines Section 15303 (new construction or conversion of small structures), and/or State CEQA Guidelines Section 15304 (minor alterations to land).

A written staff report will be available at or before the hearing for the project. All persons wishing to address the Council regarding these matters will be afforded an opportunity in accordance with the Council's procedures.

Copies of all related documents can be reviewed by any interested person at City Hall during regular business hours by appointment. Oral and written comments may be presented to the City Council on, or before, the date of the meeting.

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

STAFF CONTACT: Tyler Eaton, Associate Planner, teaton@malibucity.org, (310) 456-2489, ext. 273

MORE INFORMATION: For more information, view the City's Accessory Dwelling Units website at www.malibucity.org/adu.

RICHARD MOLLICA, Planning Director

Date: August 3, 2023