



Council Agenda Report

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

Prepared by: Kelsey Pettijohn, City Clerk

Approved by: Steve McClary, Interim City Manager

Date prepared: November 10, 2021 Meeting date: November 30, 2021

Subject: Second Reading and Adoption of Ordinance No. 494

RECOMMENDED ACTION: Conduct second reading, unless waived, and adopt Ordinance No. 494 adding Section 17.53.100 to title 17 of the Malibu Municipal Code Chapter 17.53 (Landscape Water Conservation and Fire Protection) regarding compliance with the State Model Water Efficient Landscape Ordinance and finding the action exempt for the California Environmental Quality Act.

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

WORK PLAN: This item was included as item 5.h in the adopted Work Plan for Fiscal Year 2021-2022.

DISCUSSION: On November 8, 2021, the Council introduced on first reading Ordinance No. 494.

ATTACHMENT: Ordinance No. 494

ORDINANCE NO. 494

AN ORDINANCE OF THE CITY OF MALIBU ADDING SECTION 17.53.100 TO TITLE 17 OF THE MALIBU MUNICIPAL CODE CHAPTER 17.53 (LANDSCAPE WATER CONSERVATION AND FIRE PROTECTION) REGARDING COMPLIANCE WITH THE STATE MODEL WATER EFFICIENT LANDSCAPE ORDINANCE AND FINDING THE ACTION EXEMPT FOR THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

SECTION 1. Recitals.

- A. The City of Malibu (the “City”) imposes water efficient landscape requirements on all new and rehabilitated landscaping for public agency projects and private development projects that require a permit, pursuant to Chapter 17.53 of Title 17 of the Malibu Municipal Code (MMC).
- B. The City’s requirements are intended to locally implement the Water Conservation in Landscaping Act (Government Code Section 65591 et seq.) (the “Act”).
- C. The Act requires the State Department of Water Resources to draft a model water efficient landscape ordinance (“MWELO”), and further required cities and counties, by January 1, 2010, to adopt the MWELO, or a locally modified ordinance at least as effective in conserving water as the MWELO, or else the state MWELO applies by default (Gov. Code, § 65595).
- D. The State has periodically adopted and revised the MWELO Sections 492.6(a)(3)(B) (C), (D), and (G), and most recently issued an amended MWELO on September 15, 2015 (MWELO SB 1383 Baseline Requirements) pursuant to an executive order.
- E. The City intends to comply with the current MWELO, and further desires to clarify that the MWELO performance standards, as may be amended, apply to new and rehabilitated landscape projects designated in the MWELO, notwithstanding any City requirements to the contrary.
- F. On July 12, 2021, pursuant to MMC Chapter 17.74, the City Council adopted Resolution No. 21-41 initiating an amendment to MMC Chapter 17.73 (Landscape Water Conservation and Fire Protection) to ensure the City’s compliance with State Model Water Efficient Landscape Ordinance.
- G. On July 22, 2021, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu.

- H. On August 16, 2021, the Planning Commission held a duly notified public hearing, reviewed and considered the Commission Agenda Report, public testimony, and other information in the record, and recommended the City Council approval the zoning text amendment and made the following recommendations: 1) Enforcement shall not be subject to City Council Policy # 43; and 2) Create an ad hoc committee to study landscaping issues such as water rates, mulch, compaction, and any potential conflicts with the City's existing landscaping requirements.
- I. On October 14, 2021, a Notice of City Council Public Hearing was published in newspaper of general circulation within the City of Malibu.

SECTION 2. Environmental Review.

This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds that this ordinance is not subject to CEQA because the adoption of this ordinance is not a "project" pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

SECTION 3. Findings for Malibu Municipal Code Amendment.

Pursuant to MMC Section 17.74.040, the City Council hereby makes the following findings:

- A. The City Council hereby finds that the zoning text amendment is consistent with the General Plan and is designed to protect and promote public health, safety, welfare, quality of life and the ability to preserve visually impressive views.
- B. The proposed ordinance does not authorize a use other than that already designated in the MMC. The proposed ordinance is consistent with the Coastal Act and the MMC because it protects, maintains and enhances the overall quality of the coastal zone environment. The proposed ordinance will not alter the utilization or conservation of coastal zone resources, impede public access to and along the coastal zone, or interfere with the priorities established for coastal-dependent or coastal-related development.
- C. 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.

SECTION 4. Amendments.

Section 17.53.100 is hereby added to Title 17 of the Malibu Municipal Code to read as follows:

17.53.100. Compliance with State Standards

All landscaping installed in the City of Malibu shall additionally comply with the State Model Water Efficient Landscape Ordinance (23 California Code of Regulations, Section 490 et seq.), as may be amended, if applicable. Nothing in this chapter is intended to exempt or excuse compliance with applicable state standards. In the event of a conflict between the requirements of this chapter and the State Model Water Efficient Landscape Ordinance, the more restrictive requirements shall apply.

SECTION 5. Severability.

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 6. Effective Date.

This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 7. Certification.

The City Clerk shall certify the passage and adoption of this Ordinance and enter it into the book of original ordinances.

PASSED, APPROVED AND ADOPTED this ___th day of _____ 2021.

PAUL GRISANTI, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:
THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE
JOHN COTTI, Interim City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the Malibu Municipal Code and Code of Civil Procedure.