



Council Agenda Report

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

Prepared by: Kelsey Pettijohn, City Clerk

Approved by: Steve McClary, City Manager

Date prepared: December 20, 2023

Meeting date: January 8, 2024

Subject: Second Reading and Adoption of Ordinances Nos. 510 and 511

RECOMMENDED ACTION: 1) Conduct second reading, unless waived, and adopt Ordinance No. 510, an ordinance of the City of Malibu approving Local Coastal Program Amendment (LCPA) No. 18-002, an amendment to the LCP to update accessory dwelling units (ADU) Regulations, and Zoning Text Amendment (ZTA) No. 18-004, an amendment to Title 17 (Zoning) of the Malibu Municipal Code (MMC) related to definitions, guest homes, and changing the term second units to ADUs, and finding the amendments exempt from the California Environmental Quality Act (CEQA); and 2) Conduct second reading, unless waived, and adopt Ordinance No. 511 approving ZTA No. 18-004, an amendment to Title 17 (Zoning) of the MMC to update ADU regulations and finding the amendments exempt from CEQA.

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

STRATEGIC PRIORITY: This item supports the Accessory Dwelling Unit Ordinance priority identified in the Adopted FY 2023-24 Strategic Priority Project List.

DISCUSSION: On December 11, 2023, the City Council introduced on first reading Ordinances No. 510 and 511.

ATTACHMENTS:

1. Ordinance No. 510
2. Ordinance No. 511

ORDINANCE NO. 510

AN ORDINANCE OF THE CITY OF MALIBU APPROVING LOCAL COASTAL PROGRAM AMENDMENT 18-002, AN AMENDMENT TO THE LOCAL COASTAL PROGRAM TO UPDATE ACCESSORY DWELLING UNIT REGULATIONS, AND ZONING TEXT AMENDMENT NO. 18-004, 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 FINDING THE AMENDMENTS 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 ordinance (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 ordinance (LCPA 18-002 and ZTA No.18-004), provided direction to staff, and continued the item to a date uncertain.

S. On October 19, 2023, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

T. On November 13, 2023, before consideration of the item, the public hearing was continued to November 27, 2023.

U. On November 27, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (LCPA 18-002 and ZTA No 18-004), and continued the item to the December 11, 2023 Regular City Council meeting.

V. On December 11, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (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 reports for and the hearings on September 11, November 27, and December 11, 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. 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 the following definitions contained in LIP Section 2.1 (Definitions) to read as follows:

B. Amend “GUEST HOUSE”, “LIVING AREA and “MULTI-FAMILY RESIDENCE” definitions contained in LIP Section 2.1 (Definitions) to read as follows:

GUEST HOUSE (NO KITCHEN) - attached or detached living quarters on the same premises as a single family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented or otherwise used as a separate dwelling. The maximum living area of a guest house shall not exceed nine hundred (900) square feet, including any mezzanine or storage space. A guest house 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.

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. A coastal development permit issued in accordance with Section 13.13 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 a CDP. 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 a CDP. 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 CDP permits, including the costs of adopting or amending the City's ADU ordinance. The CDP 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 1,000 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 1,000 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 1,000 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).
- e. Properties impacted by the 2018 Woolsey Fire that received a City permit for a temporary housing structure pursuant to LIP Section 3.6(M) may convert the existing legally established temporary housing to an ADU even if the temporary housing exceeds the square footage limits established by this Chapter. However, (1) such an ADU cannot exceed 1,200 square feet and (2) the building permit for, and construction of, the temporary housing must have occurred before December 12, 2023.

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 attached and detached 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																
Accessory dwelling units	A ²²	A ²²	A ²²	A ²²	.	.	.	.	.	.	.	.	.	.	.	.
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:

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 “GUEST HOUSE”, “LIVING AREA” and “MULTI-FAMILY RESIDENCE” definitions contained in 17.02.060 (Definitions) to read as follows:

“GUEST HOUSE (No Kitchen)” means detached living quarters on the same premises as a single-family residence for the use of family members, guests or employees of the occupants of such residence, containing no kitchen facilities and not rented otherwise used as a separate dwelling.

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.

This Ordinance shall become effective upon certification by the California Coastal Commission.

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 _____ day of _____ 2024.

STEVE UHRING, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

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

TREVOR RUSIN, Interim 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 FINDING THE AMENDMENTS 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 ordinance (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 ordinance (LCPA 18-002 and ZTA No.18-004), provided direction to staff, and continued the item to a date uncertain.

S. On October 19, 2023, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

T. On November 13, 2023, before consideration of the item, the public hearing was continued to November 27, 2023.

U. On November 27, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (LCPA 18-002 and ZTA No 18-004), and continued the item to the December 11, 2023 Regular City Council meeting.

V. On December 11, 2023, the City Council held a duly noticed public hearing on the proposed ADU ordinance (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. Zoning Text Amendment Findings.

Based on evidence contained within the record, including the agenda reports for and the hearings on September 11, November 27, and December 11, 2023, 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 17.44.080 (I) 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 17.44.080 (I) 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. **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 I.2. though I.4
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 (I)(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 17.02.040.
 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 17.02.040.
 - 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.

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 phrases 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 _____ day of _____ 2024.

STEVE UHRING, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

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

TREVOR RUSIN, Interim City Attorney