



# Council Agenda Report

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

Prepared by: Patricia Salazar, Senior Administrative Analyst

Reviewed by: Richard Mollica, Acting Planning Director

Approved by: Reva Feldman, City Manager

Date prepared: November 25, 2020 Meeting date: December 14, 2020

Subject: Code Amendment to Extend Deadlines for Legal Nonconforming In-kind Disaster Rebuild Projects – Second Reading and Adoption

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**RECOMMENDED ACTION:** 1) Conduct the Public Hearing; 2) Waive full reading of ordinance and order that it be read by title only; and 3) Adopt Ordinance No. 476 determining the proposed code amendment is categorically exempt from the California Environmental Quality Act (CEQA) and approving Zoning Text Amendment No. 20-002 to amend Malibu Municipal Code (MMC) Section 17.060.020(C) to extend the deadlines by one year to initiate the planning application process, obtain building permits, and the total time allotted for an extension to rebuild a legal nonconforming structure that was damaged or destroyed in the Woolsey Fire.

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

**WORK PLAN:** This item was included as item 2a in the Adopted Work Plan for Fiscal Year 2020-2021.

**DISCUSSION:** MMC Section 17.74.040 requires that a 21-day public notice takes place prior to the final adoption of the ordinance. Consistent with this requirement, staff published a Notice of Public Hearing on November 12 and 26, 2020 and the 21-day notice period will end prior to December 14, 2020. If approved, final action on the ordinance in the form of a second reading will take place on December 14, 2020. The purpose of this item before the Council is to satisfy the public hearing requirements contained in the MMC and to conduct the second reading of Ordinance No. 476.

The November 23, 2020 City Council Agenda Report can be found on the City's website at [malibucity.org/agendacenter](http://malibucity.org/agendacenter).

ENVIRONMENTAL REVIEW: The Planning Director has analyzed the code amendments described herein and has determined that the proposed amendment is covered by the general rule that the California Environmental Quality Act (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 has determined that there is no possibility the proposed amendment may have a significant effect on the environment as the restriction only applies to properties that have been damaged or destroyed by a disaster, only preserves the right to build/rebuild that they held before the disaster, and accordingly, the exemption set forth in Section 15061(b)(3) applies.

PUBLIC NOTICE: On November 12 and November 26, 2020, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu pursuant to MMC Section 17.74.040. In addition, on November 26 and December 3, 2020, a summary of the adopted ordinance was published in a newspaper of general circulation within the City of Malibu pursuant to Government Code Section 36933(c)(1). Lastly, posts were made on the City's social media platforms and emails were sent to Woolsey Fire property owners and representatives on file.

ATTACHMENTS:

1. Ordinance No. 476
2. Notices of Public Hearing

ORDINANCE NO. 476

AN ORDINANCE OF THE CITY OF MALIBU DETERMINING THE PROPOSED CODE AMENDMENT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND APPROVING ZONING TEXT AMENDMENT NO. 20-002 TO AMEND MALIBU MUNICIPAL CODE SECTION 17.060.020(C) TO EXTEND THE DEADLINES BY ONE YEAR TO INITIATE THE PLANNING APPLICATION PROCESS, OBTAIN BUILDING PERMITS, AND THE TOTAL TIME ALLOTTED FOR AN EXTENSION TO REBUILD A LEGAL NONCONFORMING STRUCTURE THAT WAS DAMAGED OR DESTROYED IN THE WOOLSEY FIRE

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

SECTION 1. Recitals

A. On February 25, 2019, the City Council adopted Ordinance No. 445, amendments to the Malibu Municipal Code Title 17 (Zoning Ordinance) and the Local Coastal Program, to facilitate the rebuilding of structures damaged or destroyed by the 2018 Woolsey Fire.

B. On September 29, 2020, the City Council adopted Resolution No. 20-52 initiating a zoning text amendment to Malibu Municipal Code Chapter 17.60 (Nonconforming Uses and Structures) to add one year to the deadlines in Subsection (C) to initiate the application process and obtain building permits to rebuild a legal nonconforming structure that was damaged or destroyed by the Woolsey Fire.

C. On November 2, 2020, the Planning Commission held a duly noticed public hearing, and adopted Planning Commission Resolution No. 20-81, recommending the City Council adopt the proposed amendment.

D. On November 12, 2020, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu indicating that the City Council would hold a public hearing on November 23, 2020, to consider the proposed amendment. In addition, posts were made on the City's social media platforms and emails were sent to Woolsey Fire property owners and representatives on file.

E. On November 23, 2020, the City Council held a duly noticed public hearing on the subject amendment, considered the recommendation by the Planning Commission, reviewed and considered written reports, public testimony, and related information. In addition, the Council introduced on first reading and adopted the Ordinance.

F. On December 14, 2020, the City Council held a duly noticed public hearing on the subject amendment, considered the recommendation by the Planning Commission, reviewed and considered written reports, public testimony, and related information and conducted a second reading of the Ordinance.

SECTION 2. Environmental Review

The City Council has analyzed the proposed code amendment described herein and has determined that the proposed code amendment is covered by the general rule that the California Environmental Quality Act (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 has determined that there is no possibility the proposed amendment may have a significant effect on the environment as the restriction only applies to properties that have been damaged or destroyed by a disaster, only preserves the right to build/rebuild that they held before the disaster, and accordingly, the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Amendment

A. Section 17.60.020(C) of the Malibu Municipal Code is hereby amended to read as follows:

Any structure described in subsection A of this section, may be remodeled, or may be reconstructed in the general location and to the same height as it existed prior to damage or destruction, subject to obtaining Planning Verification and provided that the application for the reconstruction is initiated with the city within three years of the date of damage or destruction, and a building permit is diligently pursued and obtained within five years from the date of damage or destruction and has not expired. A request for an extension of time to the three year or five year periods may be granted by the Planning Commission where it finds, based on substantial evidence, that due to unusual circumstances, strict compliance with the three or five year limit creates an undue hardship. Extensions may not total more than six years. Any reconstruction shall extend the termination date described in Section 17.60.040 for the use operating within such a structure.

SECTION 4. Findings

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

A. The City Council hereby finds that the proposed 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. The zoning text amendment further strives to protect victims of disasters and their ability to rebuild free from having artificially restrictive deadlines that may limit the ability to rebuild non-conforming structures damaged by the Woolsey Fire.

B. The proposed amendment does not authorize a use other than that already designated in the Malibu Municipal Code. The proposed amendment is consistent with the Coastal Act and the Malibu Municipal Code because it protects, maintains and enhances the overall quality of the coastal zone environment. The proposed amendment 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. 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 proposed amendment is consistent.

SECTION 5. Approval

The City Council hereby adopts Zoning Text Amendment No. 20-002 amending the Malibu Municipal Code.

SECTION 6. The City Clerk shall certify the adoption of this ordinance.

PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_ 2020.

\_\_\_\_\_  
MIKKE PIERSON, Mayor

ATTEST:

\_\_\_\_\_  
HEATHER GLASER, City Clerk  
(seal)

Date: \_\_\_\_\_

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED  
\_\_\_\_\_  
BY THE CITY ATTORNEY'S OFFICE  
CHRISTI HOGIN, 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.

**NOTICE OF PUBLIC HEARING  
CITY OF MALIBU  
CITY COUNCIL**

The Malibu City Council will hold a public hearing on **MONDAY, November 23, 2020, at 6:30 p.m.** on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor’s Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer’s Safer at Home Order (revised October 23, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

**How to View the Meeting:** No physical location from which members of the public may observe the meeting and offer public comment will be provided. Please view the meeting, which will be live streamed at <https://malibucity.org/video> and <https://malibucity.org/VirtualMeeting>.

**How to Participate Before the Meeting:** Members of the public are encouraged to submit email correspondence to [citycouncil@malibucity.org](mailto:citycouncil@malibucity.org) before the meeting begins.

**How To Participate During The Meeting:** Members of the public may also speak during the meeting through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit <https://malibucity.org/VirtualMeeting> and follow the directions for signing up to speak and downloading the Zoom application.

**Woolsey Fire Non-Conforming Structures Application Deadline**

**ZONING TEXT AMENDMENT NO. 20-002** – The City Council will consider amendments to the Malibu Municipal Code, and the Planning Commission’s recommendation discussed at the November 2, 2020 Regular Planning Commission meeting regarding a proposed amendment to Malibu Municipal Code Chapter 17.60.020 (Nonconforming Uses and Structures) to add one year to the deadlines in Subsection(C) to initiate the planning application process and obtain building permits to rebuild a legal non-conforming structure that was damaged or destroyed in the Woolsey Fire.

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Richard Mollica, Acting Planning Director (310) 456-2489, extension 346 rmollica@malibucity.org

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Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project and found that it is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption apply to this projects (CEQA Guidelines Section 15300.2).

A written staff report will be available at or before the hearing for the projects. 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 by contacting the Case Planner during regular business hours. Oral and written comments may be presented to the City Council at any time prior to the beginning of the public hearing.

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.

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Richard Mollica, Acting Planning Director

Publish Date: November 12, 2020

**NOTICE OF PUBLIC HEARING  
CITY OF MALIBU  
CITY COUNCIL**

The Malibu City Council will hold a second public hearing on **MONDAY, December 14, 2020, at 6:30 p.m.** on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order. All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

**How to View the Meeting:** No physical location from which members of the public may observe the meeting and offer public comment will be provided. Please view the meeting, which will be live streamed at <https://malibucity.org/video> and <https://malibucity.org/VirtualMeeting>.

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On November 23, 2020, the City Council held a duly noticed public hearing, introduced on first reading Ordinance No. 476, and adopted the subject amendment. On December 14, 2020, the Council will hold a second public hearing and conduct the second reading of Ordinance No. 476. The second hearing is being held to satisfy the public notice requirements contained in Malibu Municipal Code Section 17.74.040.

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Richard Mollica, Acting Planning Director (310) 456-2489, extension 346 <a href="mailto:rmollica@malibucity.org">rmollica@malibucity.org</a>

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Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project and found that it is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption apply to this projects (CEQA Guidelines Section 15300.2).

A written staff report will be available at or before the hearing for the projects. 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 by contacting the Case Planner during regular business hours. Oral and written comments may be presented to the City Council at any time prior to the beginning of the public hearing.

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.

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Richard Mollica, Acting Planning Director

Publish Date: December 3, 2020

## NOTICE OF PUBLIC HEARING

The Malibu City Council will hold second public hearings to adopt the ordinances listed below on MONDAY, December 14, 2020, at 6:30 p.m., via teleconference only in order to reduce the risk of spreading COVID -19, pursuant to the Governor's Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer's Safer at Home Order.

Ordinance No. 474 adopts by reference the business license regulations pertaining to massage establishments and massage technicians found in Chapter 7.54 of the Los Angeles County Code and finds the same exempt from the California Environmental Quality Act. These regulations are designed to prevent human trafficking and ensure public health protection by imposing various restrictions on both massage business and massage technicians. These enhanced business license regulations include, but are not limited to, mandated inspections, reporting requirements and operational restrictions.

This ordinance was introduced by the City Council November 9, 2020 on the following vote:

Councilmembers:

AYES: 5 Farrer, Mullen, Wagner, Peak, Pierson  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

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Ordinance No. 476 proposes amendments to Section 17.60.020 of Chapter 17.60 (Nonconforming Uses and Structures) of the Malibu Municipal Code and finds the same exempt from the California Environmental Quality Act. If adopted, the ordinance will amend Section 17.60.020(C) to extend the deadlines by one year to initiate the planning application process, obtain building permits, and the total time allowed per an extension request to rebuild a legal nonconforming structure that was damaged or destroyed in the Woolsey Fire. The deadline to file an application will be three (3) years from the date of damage or destruction and the deadline to obtain a building permit is five (5) years from the date of damage or destruction. Extensions may be granted by the Planning Commission based on undue hardship and extension may not total more than six (6) years.

This ordinance was introduced by the City Council November 23, 2020 on the following vote:

Councilmembers:

AYES: 5 Farrer, Mullen, Wagner, Peak, Pierson  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

Please visit <https://malibucity.org/VirtualMeeting> and follow the directions for signing up to speak and downloading the Zoom application.

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Heather Glaser  
City Clerk

Publish: The Malibu Times, November 26, 2020 and December 3, 2020