



# Council Agenda Report

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

Prepared by: Richard Mollica, Planning Director

Approved by: Steve McClary, City Manager

Date prepared: April 29, 2022 Meeting date: May 9, 2022

Subject: Adopt Urgency Ordinance No. 499U (Day-Use Impound Yard)

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**RECOMMENDED ACTION:** 1) Adopt Urgency Ordinance No. 499U (Attachment 1) amending Malibu Municipal Code Section 17.68.040 (Temporary Uses Requiring Permit) to allow for a temporary day-use impound yard, subject to a temporary use permit, during the summer, at Assessor Parcel No. 4466-021-028, generally located at the intersection of Pacific Coast Highway and Heathercliff Road, and finding the action exempt from the California Environmental Quality Act and setting forth the facts constituting such urgency; and 2) Provide direction to staff on whether to process a Zoning Text Amendment consistent with the urgency ordinance.

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

**WORK PLAN:** This item was not included in the Work Plan for Fiscal Year 2021-2022.

**DISCUSSION:** At its April 25, 2022 Regular City Council meeting, the Council discussed the importance and need for a site that could be utilized during summer months to function as a day-use impound yard by a Los Angeles County Sheriff Department sanctioned vehicle towing company. The impound yard would be used for vehicles that are illegally parked or pose a public safety hazard.

Due to the increase in visitors and vehicular traffic during the summer, there is an increase in the rate and number of illegally parked cars and other vehicle related violations. These illegally parked cars and other vehicular related violations pose a serious public health and safety threat by impeding the free flow of traffic and acting as an obstacle to first responders.

To impound a vehicle, a Sheriff Deputy must observe the violation, issue a ticket, and request a tow truck. The Sheriff Deputy must stay with the vehicle until the tow truck arrives and removes the vehicle. The City currently has a limited capacity to tow and store vehicles in the City and locations out of the City require additional time and cost, including limiting the number of cars that can be towed. Further, the existing locations of temporary impound yards in the City make the towing of a vehicle from one end of the City to the other prohibitive due to the traffic and public safety risks of towing cars across the City. As such, the Council recommended that an urgency ordinance to allow for the use of the City owner parcel located at Heathercliff Road and Pacific Coast Highway. If the urgency ordinance is adopted, a TUP application will be processed pursuant to MMC Section 17.68.050 which includes a 35 day processing requirement prior to effectiveness.

Ordinance No. 499U proposes to add subsection M to Malibu Municipal Code Section 17.68.040 to reads as follows:

M. Temporary day-use impound yard used exclusively for the temporary storage of towed cars, not to be used overnight, only on the City-owned lot located at Assessor Parcel No. 4466-021-028, located generally at the intersection of Pacific Coast Highway and Heathercliff Road, during the time period of Memorial Day (last Monday of May) through the first Monday in October. The dates for this use shall not count against the maximum sixty (60) calendar days within one calendar year for which a site can be used for temporary uses nor will the fourteen (14) consecutive calendar day limitation apply to this temporary use. This provision shall expire on October 3, 2022.

CONCLUSION: Staff recommends that the City Council adopt Ordinance No. 499U and provide direction to staff on whether to prepare a ZTA consistent with the emergency ordinance.

ATTACHMENTS: Ordinance No. 499U

ORDINANCE NO. 499U

AN URGENCY ORDINANCE OF THE CITY OF MALIBU AMENDING MALIBU MUNICIPAL CODE SECTION 17.68.040 (TEMPORARY USES REQUIRING PERMIT) TO ALLOW FOR A TEMPORARY DAY-USE IMPOUND YARD, SUBJECT TO A TEMPORARY USE PERMIT, DURING THE SUMMER AT ASSESSOR PARCEL NO. 4466-021-028, GENERALLY LOCATED AT THE INTERSECTION OF PACIFIC COAST HIGHWAY AND HEATHERCLIFF ROAD, AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

The City Council of the Malibu does ordain as follows:

SECTION 1. Purpose and Findings.

A. Vehicular traffic and visitors to the City, its beaches and other recreational areas are anticipated to increase during the summer months based on past experience.

B. Due to the increase in visitors and vehicular traffic, there is expected to be an increase in the rate and number of illegally parked cars and other vehicle related violations. These illegally parked cars and other vehicular related violations pose a serious public health and safety threat by impeding the free flow of traffic and acting as an obstacle to first responders.

C. The City currently has a limited capacity to tow and store vehicles in the City and locations out of the City require additional driving to locations in the City of Thousand Oaks that can take up to two hours per tow, which severely limits the City's ability to tow vehicles including limiting the number of cars that can be towed. In some cases, an illegally parked vehicle is towed only to have another vehicle take the illegal parking space and due to the distance involved it can be hours before the new illegally parked vehicle can be towed. Further, the existing locations of temporary tow yards in the City make the towing of a vehicle from one end of the City to the other prohibitive due to the extensive summer traffic and public safety risks of towing cars along Pacific Coast Highway.

D. Specifically, the area around and near Zuma Beach provides a particularly high number of illegally parked cars and other vehicular violations during the congested summer months which often pose public health and safety risks.

E. This Ordinance is intended to promote the health, safety, and public welfare of City residents during the summer months (Memorial Day to Labor Day) by allowing Assessor Parcel No. 4466-021-028, located generally at the intersection of Pacific Coast Highway (PCH) and Heathercliff Road, to be used as a temporary tow yard pursuant to the City's temporary use permit process.

F. On May 9, 2022, the City Council held a duly noticed public hearing on Urgency Ordinance 499U reviewed and considered the staff report, materials in the record and public testimony.

G. This Ordinance is adopted for the protection of life, property, health, safety, and welfare of the public and is adopted pursuant to the powers vested in the City of Malibu under the laws and the Constitution of the State of California, including the police powers vested in the City pursuant to Article XI, section 7 of the California Constitution. This Ordinance is approved pursuant to section 36937 of the California Government Code, allowing for ordinances of immediate presentation of the public peace, health, or safety. As set forth below, the immediate preservation of the public peace, health and safety requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption by four-fifths of the City Council.

SECTION 2. Findings for Malibu Municipal Code Amendment.

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

A. The subject urgency zoning text amendment is consistent with the objectives, policies, general land uses and programs specified in the General Plan. The proposed amendment is consistent with Safety Objective 1.3 (An Ongoing, Permanent Program for Cooperating with Other Jurisdictions, Agencies, and Public and Private Organization to help meet the Goals of the Safety and Health Element.) and in particular Safety Implementation Measure 59 which encourages work with the appropriate jurisdictions to ensure that highways, roads, bike paths, foot paths, and trails are free of avoidable hazards. The proposed amendment will ensure that the Los Angeles County Sheriff's Department is able to effectively enforce parking regulations to ensure public safety and emergency access along City and State owner rights-of-way.

B. The City Council held a public hearing, reviewed the subject urgency 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 urgency zoning text amendment is consistent and recommends approval.

SECTION 3. Amendment to the Malibu Municipal Code.

The City Council hereby adds subsection M to Malibu Municipal Code Section 17.68.040 to read as follows:

M. Temporary day-use impound yard used exclusively for the temporary storage of towed cars, not to be used overnight, only on the City-owned lot located at Assessor Parcel No. 4466-021-028, located generally at the intersection of Pacific Coast Highway and Heathercliff Road, during the time period of Memorial Day (last Monday of May) through the first Monday in October. The dates for this use shall not count against the maximum sixty (60) calendar days within one calendar year for which a site can be used for temporary uses nor will the fourteen (14) consecutive calendar day limitation apply to this temporary use. This provision shall expire on October 3, 2022.

#### SECTION 4. Severability.

If any section, subsection, sentence, clause, phrase or word of this Chapter is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the remaining provisions of this Ordinance.

#### SECTION 5. Environmental Review.

The City Council finds that adoption and implementation of this ordinance is categorically exempt per Section 15304(e) of the CEQA guidelines regarding minor temporary uses of land. The City Council also alternatively finds that the adoption and implementation of this ordinance is exempt from the provisions of CEQA as an administrative activity by the City of Malibu, in furtherance of its police power, that will not result in any direct or indirect physical change in the environment, per sections 15061(b)(3), and 15378(b)(5) of the CEQA Guidelines, as well as CEQA Guidelines section 15064(e) (economic regulations). Further, the City Council finds that the adoption and implementation of this ordinance is categorically exempt per Section 15269 of the CEQA guidelines regarding emergency projects as this action is necessary to prevent or mitigate an emergency by allowing greater flexibility in towing cars in the City that pose public peace, health and safety risks.

#### SECTION 6. Urgency Declaration; Effective Date.

The City Council finds and declares that the adoption and implementation of this Ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above. The impending increase in vehicular traffic to the City during the summer months, particularly in the vicinity of Zuma Beach, is likely to result in an increase in illegally parked vehicles and other vehicle violations that pose a serious threat to the public peace, health and safety. These dangers include, but are not limited to, illegally parked vehicles and other vehicle related violations that impede the free flow of traffic, make the use of City roads and parking lots more dangerous, encourage individuals to unsafely cross PCH and other roads, cause access issues and could make negatively impact the ability of first responders to properly and efficiently respond to emergencies. Without a temporary tow yard in close proximity, towing a vehicle to a tow yard outside of the City or to a location further away in the City not only severely limits the City's ability to tow the required number of vehicles to create a safe environment, but would also create its own traffic and safety issues by towing vehicles far distances across the City. This lack of enforcement towing is likely to lead to further violations and unsafe activity. The City Council therefore finds and determines that the immediate preservation of the public peace, health and safety, and protection of life and property, require that this Ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption by four-fifths of the City Council and expire on October 3, 2022

SECTION 7.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

PASSED, APPROVED AND ADOPTED this 9th day of May 2022.

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PAUL GRISANTI, Mayor

ATTEST:

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KELSEY PETTIJOHN, City Clerk  
(seal)

APPROVED AS TO FORM:

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

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JOHN COTTI, Interim City Attorney