City Council Meeting
03-04-24
Item 3.A.

Council Agenda Report

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

Prepared by: Tyler Eaton, Principal Planner

Reviewed by: Maureen Tamuri, AIA, AICP, Interim Planning Director

Approved by: Joseph D. Toney, Acting City Manager

Date prepared: February 26, 2025 Meeting date: March 4, 2025

Subject: Local Coastal Program Amendment No. 25-001 and Zoning Text Amendment No. 25-001 – An amendment to the Malibu Local Coastal Program and Malibu Municipal Code Title 17 (Zoning) Modifying Standards and Procedures to Facilitate the Rebuilding of Structures Damaged or Destroyed by the 2025 Palisades Fire, 2024 Franklin Fire, and 2024 Broad Fire

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RECOMMENDED ACTION: 1) After the City Attorney reads the title of the ordinance, adopt Urgency Ordinance No. 524U (Attachment 1), approving Zoning Text Amendment No. 25-001, an amendment to Title 17 (Zoning) of the Malibu Municipal Code updating regulations to facilitate the rebuilding of structures damaged or destroyed by natural disasters, including but not limited to, the 2025 Palisades Fire, 2024 Franklin Fire, and 2024 Broad Fire to provide relief for those affected, declaring the urgency thereof, and finding the amendments are exempt from the California Environmental Quality Act; 2) After the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 524 (Attachment 2) approving Local Coastal Program Amendment No. 25-001, an amendment to the Local Coastal Program and Zoning Text Amendment No. 25-001, an amendment to Title 17 (Zoning) of the Malibu Municipal Code updating regulations to facilitate the rebuilding of structures damaged or destroyed by natural disasters, including but not limited to, the 2025 Palisades Fire, 2024 Franklin Fire, and 2024 Broad Fire to provide relief for those affected, and finding the amendments are exempt from the California Environmental Quality Act; and 3) Direct staff to schedule second reading and adoption of Ordinance No. 524.

DISCUSSION: On January 27, 2025, the City Council initiated Local Coastal Program Amendment (LCPA) No. 25-001 and ZTA No. 25-001 to help facilitate the rebuild process, directed staff to bypass the Zoning Ordinance Revisions and Code Enforcement Subcommittee, and directed the Planning Commission to schedule a public hearing regarding the matter. The Council directed staff to bring back an item to facilitate the rebuilding efforts of projects that are proposed to rebuild within 10% of the previously existing structure. The Council also directed staff to pursue all options, including use of Governor's Orders, during this process—and also to seek relief for projects where the home could be rebuilt under an exemption or the Governor's Orders, but accessory development such as driveways or onsite wastewater treatment systems (OWTS) would require a CDP.

On February 20, 2025, the Planning Commission reviewed staff's original proposal and provided recommendations to the City Council. This agenda report outlines the Planning Commission's and staff's recommended amendments to help facilitate the rebuild process and provides further information on the City's rebuild process and how it relates to federal and State laws. The recommendations also include requested edits from the California Coastal Commission (CCC) staff. CCC staff presented these requested changes so that they can recommend the City's LCP amendment be approved with no changes, which will increase the speed in which the changes can be implemented. If the CCC makes changes to the LCPA, additional time will be required to bring the changes back to the City Council where the City Council would consider whether to accept the changes (in which case they become law), or decline to accept them and instead submit a new LCPA to the Coastal Commission for certification.

The City Council can consider the recommended changes and provide further direction to staff or accept the recommended changes as proposed. Staff has prepared an urgency ordinance in addition to the regular ordinance so that the the muncipal code changes come into effect immediately following adoption, which will help facilitate rebuilds for those who were affected by the recent fires. Both the urgency ordinance and regular ordinance provide the same recommended changes to the Malibu MMC.

As of current count, the recent fires have destroyed or damaged structures on over 700 properties in Malibu, leaving residents with an urgent need to rebuild and often without a place to stay. This includes hundreds of beachfront properties and properties within known geological hazard areas. The City will see a substantial increase in applications to rebuild and requests related to making properties safe.

GOVERNOR'S EXECUTIVE ORDERS

The Governor of California issued Executive Order N-4-25 on January 12, 2025, to help facilitate the rebuild process for properties damaged or destroyed in the recent fires in Los Angeles County including the Palisades Fire which has affected Malibu. As of the current date, the Order does not include people affected by the Franklin or Broad Fires. The Executive Order states that the California Environmental Quality Act (CEQA) and California Coastal Act were suspended to the extent that they would normally apply to any property that was damaged or destroyed. On February 13, 2025, The Governor issued Executive Order N-20-25 (Attachment 7) which replaced parts of the earlier order and provided broader suspensions of the coastal act and CEQA. Pursuant to the order, the following (among other aspects) are suspended from the Coastal Act and CEQA related to the rebuilding of structures damaged or destroyed in the Palisades Fire:

"a. Primary structures and facilities that are in substantially the same location as, and do not exceed 110% of the footprint and height of, the primary structures and facilities that existed immediately before this emergency.
b. Accessory structures that do not exceed 110% of the footprint and height of the accessory structures that existed immediately before this emergency, and that are in substantially the same location relative to the primary structure as the accessory structures that existed immediately before the emergency. For properties subject to Coastal Commission Categorical Exclusion Order E-79-8, accessory structures covered by this subparagraph include accessory structures that are in substantially the same location relative to a primary residence as the accessory structures that existed immediately before the emergency, regardless of the size or location of the primary residence.
c. New accessory dwelling units on a residential property on which a primary residence was substantially damaged or destroyed as a result of this emergency, but only to the extent that such accessory dwelling units are built at least 10 feet from a canyon bluff or 25 feet from a coastal bluff.
d. Supportive infrastructure, including, but not limited to, foundation systems, utilities, and driveways, that is necessary to construct, install, or use the structures and facilities described in subparagraphs (a)-(c)."

The Governor has also issued related orders further clarifying that the California Coastal Commission (CCC) shall work with local agencies to facilitate the rebuild process.

The Malibu LCP is the application of the California Coastal Act in Malibu and makes the City the issuer of Coastal Development Permits (CDP), except that the CCC retains appeal, and original jurisdiction over certain areas within the City, such as the coastline and waterways. City staff have had meetings with CCC staff, the Executive Director, and Commissioners including the Chair—all of whom visited the City and have directly seen the damage in the City. The CCC representatives expressed their desire to work together with the City on changes to the LCP, and agreed with City staff's understanding of the reach of the Governor's Executive Orders.

Malibu locals may be familiar with the current CDP exemptions that exist in the LCP's Local Implementation Plan (LIP) today. Specifically, LIP Section 13.4.6, which exempts structures, other than a public works facility, destroyed by a natural disaster as long as it meets the following criteria:

1. It is for the same use as the destroyed structure;
2. It does not exceed either the floor area, height, or bulk of the destroyed structure by more than ten (10) percent, and
3. It is sited in the same location on the affected property as the destroyed structure. As used in this section, "structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

The Executive Order differs from the current LCP regulations. Instead of the 10 percent increase being related to floor area, height, or bulk, the order specifies that the 10 percent increase is related to footprint and height. This directive gives more flexibility to the rebuild process for those impacted by the Palisades Fire in that as long as the development stays within the footprint of the previous structure by 110 percent, then CEQA or Coastal Act regulations are otherwise suspended for rebuild structures. However, structures may not encroach on a public access easement or public access deed restriction, excluding any such easements or deed restrictions on the seaward side of structures or facilities on the beach. Structures may not expand farther into a previously approved public view corridor, farther into an open space deed restriction, or farther seaward on the beach than the structure or facility that existed immediately before the emergency either.

Local agencies have sole authority to decide whether a project qualifies for the suspension and the decision by the City cannot be appealed to the CCC or any other State agency. The order also provides that CDP entitlements that were set to expire within the disaster are extended for an additional three years without needing to apply for an extension. It also provides relief to some building and health and safety code standards. The full text of Executive Order N-20-25 can be found in Attachment 7.

As mentioned previously, as of the date of this report, the order did not include relief language for those affected by the Franklin and Broad Fires. The rebuild of those structures falls under existing LCP and MMC language. One of the goals of the proposed LCPA and ZTA before the Council is to provide the same type of relief provided by the Governor's Executive Orders for those impacted by the Palisades Fire to those affected by the Franklin and Broad Fires, and to those affected by future natural disasters. Although we hope that residents will never have to use the relief provided by the code amendments, recent history has proven that the City will need to become more adaptable to future events. Making these changes will avoid the delay involved in getting new amendments

certified in the future—allowing those impacted to immediately rebuild in accord with how those impacted by the Palisades Fire will be able to under the Governor's Executive Orders.

The LCP and MMC amendments will also close gaps not covered by the Executive Orders. As will be discussed in this report, even those affected by the Palisades Fire may need to rely on some of the proposed amendments during their rebuild process. Some examples include relief related to application processing, Federal Emergency Management Agency (FEMA) flood zone for properties along the coast, and relocation of some rebuild structures in geologic and coastal hazard areas.

PLANNING COMMISSION MEETING ON FEBRUARY 20, 2025 AND SUBSEQUENT CCC STAFF COMMENTS

The Planning Commission recommended several changes to the LCP and MMC for the Council to consider. Attachment 3 describes the recommended changes to the LCP. Attachment 4 describes the recommended changes to the MMC. The existing language in both codes are shown in black text. The original staff recommended changes presented to the Planning Commission are shown in red text. The Planning Commission's recommended additions or subtractions are shown in blue text. After consultation with California Coastal Commission staff and Los Angeles County Fire Department (LACFD) officials following the February 20, 2025 Planning Commission meeting, Malibu staff is recommending further changes in purple text. An example of the text is shown below for reference:

Height increases beyond ten (10) percent for structures that are located on, or adjacent to, the sandy beach that would otherwise be exempt from the requirement to obtain a coastal development permit pursuant to Section 13.4.6(A) where the previous finished floor elevation must be raised more than ten (10) percent higher than the previous height to meet Federal Emergency Management Agency (FEMA) flood zone requirements as determined by the City's floodplain administrator. Such height increase shall not exceed the increase in height to the finished floor required to meet the minimum FEMA flood zone requirements even if creating a nonconforming condition as measured from the centerline of the nearest adjacent public or private road.~~, nor shall it exceed 24 feet for a flat roof or 28 feet for a pitched roof as measured from the centerline of the nearest adjacent public or private road.~~

The CCC staff have stated that if accepted, the proposed changes to the LCP will be recommended for approval to the California Coastal Commission with no proposed changes. Although this language does not match exactly the language proposed by staff to the Planning Commission, nor does it include all of the changes recommended by the Planning Commission, it will significantly help those affected by fires.

As mentioned previously, the Palisades Fire affected properties are generally not subject to the LCP due to the Governor's Executive Orders, except for the two scenarios, FEMA

height increase above 10 percent in height and relocation substantially outside the original location.

On February 20, 2025, the Planning Commission considered the resolution, draft ordinance, and the original LCP and MMC changes in red text (Attachments 3 and 4) and provided the following recommendations to the City Council:

1. Add recital G to the ordinance and resolution, to state, "February 13, 2025, Governor Newsom issued Executive Order N-20-25, which suspended requirements of the California Environment Quality Act and California Coastal Act for Palisades Fire rebuilds and related issues. **(Added to the proposed urgency ordinance, regular ordnance and resolution)**

2. Modify LIP Section 13.4.6(A)(2) to change "floor area, height, or bulk" to "footprint and height"; **(Staff recommends not making this change)**

   Although the intent of the Planning Commission was to mimic the Governor's Order for all fires, the changes may have adverse impacts. The change would mean that rebuild structures would be exempt from a Coastal Development Permit if they are within 110 percent the original footprint and height of the destroyed structure. The original language states that the rebuild structure needs to be within 110 percent of the original structure's height, floor area, and bulk. For example, a change to "footprint" instead of "floor area" may limit a rebuild to a smaller footprint than they would be allowed with a 10 percent addition in floor area (square footage). Instead the term "substantially" was added to LIP Section 13.4.6(A)(3) to allow more flexibility when building the replacement structure, consistent with the Governor's Orders. The language is now proposed to read, "It is sited in substantially the same location on the affected property as the destroyed structure."

   Additionally, removing "bulk" and relying on only "footprint" and "height" may allow a rebuild structure a much greater massing than 10 percent which may have adverse impacts on neighbor's views. "Footprint" and "height" is only a two-dimensional review while "floor area, height, and bulk" is a three-dimensional review and can address structure massing that may result in significant view impacts. Views are significant to the residents of Malibu and have a lot to do with property values. Ensuring that rebuild structures stay within a 10 percent of addition of "floor area, height, and bulk" ensures that nobody can benefit from a greater than 10 percent increase in structure size, which staff believes is the intent of the Governor's Order. This section would not limit those impacted by the Palisades Fire as they do not require a CDP to rebuild their home within 10 of the height and footprint that previously existed.

3. Modify LIP Section 13.4.11(A)(4) to "meet the minimum FEMA flood zone requirements even if it creates a nonconforming condition~~, nor shall it exceed 24 feet for a flat roof or 28 feet for a pitched roof as measured from the centerline of the nearest adjacent public or private road~~." **(Changed as recommended by the Planning Commission)**

4. Modify LIP Section 13.4.11(A)(5) to delete "in the judgment of the Planning Director". **(Changed as recommended by the Planning Commission)**

5. Move the De Minimis Waivers from LIP Section 13.4.11(A) to LIP Section 13.4.6 – Exemption for Structures Destroyed by Natural Disaster. **(Staff recommends not making this change)**

   The Planning Commission recommended to move the De Minimis Waiver (DMW) options (driveway widening, onsite wastewater treatment system (OWTS) replacements, seawalls, height above 10 percent to meet FEMA, and relocation substantially outside the original footprint) to the CDP exemption category. Currently these types of projects would need a waiver from a CDP which still requires noticing requirements, findings, and reporting to the Planning Commission—but still are processed administratively and do not require a CDP application and related materials.

   The CCC staff could not support this change because the Coastal Act has only specific categories of exemptions, and the proposed DMW categories of projects do not fit within that language. CCC staff did support these types of projects being processed with a waiver from the full CDP process. A DMW is a much quicker process than a full CDP and will help our residents get the needed structures quicker, without having to adhere to the cumbersome requirements of a full CDP process. The CCC staff has stated they will recommend approval to the CCC of the proposed expansion of the DMW categories.

6. Recommend that the City Council consider removal of the current ingress/egress requirements in Malibu Municipal Code Section 17.44.090 based on consultation with a fire expert. **(Staff recommends considering this change)**

   In 2024, the City Council adopted language in the Accessory Dwelling Unit (ADU) law that requires properties to have a minimum street width of 20 feet in order to obtain an ADU. As mentioned previously, the Governor's Orders have suspended the California Coastal Act for properties damaged or destroyed by the Palisades Fire in order to obtain an ADU. This means that property owners need only

demonstrate they can meet the current MMC requirements in order to get an ADU if their property was damaged or destroyed by the Palisades Fire. Some properties will not be able to take advantage of the Governor's Order to obtain an ADU due to the current MMC requirements of a 20 foot wide access road. The 20 foot wide requirement was added by the Council in 2024 because the City is in a Very High Fire Hazard Severity Zone and thus did not want to promote greater population density in areas where fire authorities may have trouble accessing. It's a complex issue but one the Council may want to consider to either ease requirements to obtain an ADU or keep the existing language that would prohibit them in access-challenged areas.

7. Add Ficus to the list of trees prohibited within 50 feet of a structure to Malibu Municipal Code Section 17.53.090(C)(1)(c). **(Changed as recommended by the Planning Commission)**

8. Recommend a fire expert review Malibu Municipal Code Section 17.53.090 prior to staff presentation to City Council. **(Staff has completed this task)**

   The proposed changes have been reviewed by Los Angeles County Fire Department (LACFD) officials. The LACFD proposed changes have been included in the revised landscaping requirements of the MMC.

9. Strike staff's recommended addition of MMC Section 17.60.020(C)(1). **(Changed as recommended by the Planning Commission)**

10. Recommend City Council meet with external agencies including the California Department of Transportation (Caltrans) and the California Coastal Commission to discuss those agencies' viewpoints on construction of a seawall and protection of Pacific Coast Highway infrastructure. **(Staff has completed this task)**

    Staff has confirmed that the Caltrans master plan will not be implemented during the rebuild of eastern Malibu. As of the current date, all rebuilds in eastern Malibu should be able to enjoy the same property rights as were present before the fire. Additionally, staff has met with the CCC and the recommended changes are attached as Attachment 3.

11. Recommend adoption of staff recommendations with Council consideration of potential implications of pre-existing Primary View Determinations. **(Staff has completed this task)**

Staff has verified that only two existing Primary View Determinations (PVD) may be impacted by the potential increases in height as required by the FEMA floodplain raising of the previous finished floor elevations for beachfront properties. The rise in height has been determined to cause a minimal impact to existing protected views and thus no extra PVD protections are proposed.

12. Recommend Council consider future construction management plans during Caltrans improvements to Pacific Coast Highway and adoption of staff recommended language for MMC Section 17.62.080. **(Staff has completed this task)**

    Upon Council direction, staff can impose conditions of approval that require an encroachment permit from Caltrans for construction activities that take place within the Pacific Coast Highway right-of-way (ROW). Property owners will be required to obtain encroachment permits for any work within the Caltrans ROW or City ROW.

13. Recommend City Council study the issues related to temporary housing on beachfront properties in more detail in MMC Section 17.40.040(A)(18). **(Staff has completed this task)**

    Beachfront properties will only be able to obtain a temporary housing permit if they meet all the requirements on MMC Section 17.40.040(A)(18).

14. Modifying LIP Section 13.4.6(B) and MMC Section 17.62.080(A)(2)(.a.) to replace "beachfront facing blufftop" with "coastal bluff. **(Changed as recommended by the Planning Commission)**

15. Add to MMC Section 17.40.040(A)(k), "Temporary housing supported on wheels shall be fastened to the ground". **(Changed as recommended by the Planning Commission)**

The Council may consider all or some of the changes by the Planning Commission and staff or they may seek to place their own standards within the laws. At current date, the CCC staff has accepted the modified language attached to this report (Attachment 3). The City has the ability to have the LCPA heard at the April 9-11 CCC hearing if there are not substantial changes to the proposed modifications. Some changes should be acceptable. Any changes that deviate substantially from the proposed modifications will likely result in the LCPA being heard at a later CCC hearing. Additionally, any substantial changes to either the MMC or LCP from what is proposed may require the item to head back to the Planning Commission for consideration.

LOCAL COASTAL PROGRAM AMENDMENT

The proposed amendments to the LCP are summarized below. The full text of the proposed amendments can be found in the attached Ordinance (Attachment 2). Attachments 3 and 4, show the amendment language in underline/strikethrough format for ease of identifying the proposed changes from existing language.

LIP Chapter 2 – Definitions

LIP Section 2.1 is proposed to be amended to include a definition for "Primary Development Area Footprint" as follows: "the main building pad or development area which supported the primary building in which the principal use of the lot was situated or conducted, as distinguished from a secondary building pad or development that is not attached to the main building pad or development area, for purposes of properties that were damaged or destroyed by a natural disaster. For beachfront lots, decks that were attached to the primary building shall be included in the primary development area footprint if replaced with another deck." This definition is proposed to be added to ensure clarity for the use of a new term describing areas within the "footprint". This will help guide the rebuild process for new structures being constructed within the previously existing "footprint". The primary development area footprint can include decks and graded areas and not limit development to the footprint of the primary building only.

LIP Chapter 3 - Zoning Designations and Permitted Uses

LIP Section 3.6(M) related to temporary housing has been revised so that temporary housing structures shall not exceed 1,000 square feet. Amendments approved during the 2018 Woolsey Fire approved 1,200 square feet as the maximum based on the notion that 1,200 square feet would facilitate temporary homes to accommodate a typical double-wide trailer. Residents who invested in 1,200 square foot temporary housing structures wanted to make the temporary homes permanent at a later date. The City's current ADU ordinance allows a maximum 1,000 square feet. LIP Section 3.6(M) has been revised consistent with 1,000 square feet in case residents desire to make their temporary housing structures permanent and still meet required ADU design standards.

LIP Chapter 13.4 – Exemptions from, and De Minimis Waivers of, Coastal Development Permit Requirements

LIP Section 13.4.6(A) has been revised to ensure that mechanized equipment or temporary shoring on the beach necessary to reconstruct is exempt from the requirement to obtain a CDP for beachfront properties so long as construction activities do not enter the intertidal zone or extend beyond the original footprint. LIP Section 13.4.6(B)(3) has been revised to include the word "substantially" to ensure greater flexibility than the current language which states that the replacement structure must be replaced in the exact same location. This change is consistent with the Governor's Executive Order.

The OWTS replacement exemption, 13.4.6(B), has been revised to remove the capacity limits and instead provide that a replacement OWTS is exempt so long as it is within the damaged or destroyed primary development area footprint. Beachfront properties shall place the OWTS in the most landward feasible location, shall not impact public accessways or view corridors, and may not extend seaward of the previously existing primary development area footprint.

LIP Section 13.4.6(C) was removed per the CCC staff recommendation and added to the DMW category.

LIP Section 13.4.11 (General Requirements for De Minimis Waiver) has been revised to facilitate rebuilds on the beach and in geological hazard areas. LIP Section 13.4.11(A)(1) now includes OWTS outside of the primary development area footprint that were damaged or destroyed by the natural disaster by more than 10 percent. This will ensure that OWTS improvements not meeting the CDP exemption can qualify for a waiver from the requirement to obtain a CDP and thus would not be appealable to the CCC.

LIP Section 13.4.11(A)(2) which allows minor improvements to driveways and access roads needed for fire department access has been revised to make accessory structures, such as retaining walls, eligible for a De Minimis Waiver (DMW). It also includes cuts into slopes steeper than 3:1 (but not to exceed 1:1 slopes and steeper) in the DMW category. This will ensure that if the road or driveway cut applied for is necessary for fire department requirements, discretionary requests and CDPs will not be required. Many projects in the 2018 Woolsey Fire could not take full advantage of this waiver if their retaining walls included cuts into steep slopes. New seawalls necessary to ensure coastal resource protection was removed per the CCC staff request. New seawalls on the beach are considered new development and not exempt from the Coastal Act. Instead, replacement seawalls beyond 10 percent in height have been included as a DMW option.

Height increases beyond 10 percent necessary to accommodate FEMA flood zone finished floor elevations, and replacement structures that were damaged or destroyed by a natural disaster and that are not sited in the same general location on the affected property as the destroyed structure have also been added as DMW options to facilitate the rebuild process and avoid lengthy CDP and appeal processes. People affected by the recent fires may need these added waivers to rebuild their structures and this serves to close a potential gap in the Executive Orders.

The findings for a DMW listed in LIP Section 13.4.11(B) have been revised to ensure that these new structures will still meet the necessary LCP requirements related to protections of coastal resources and policies. They will ensure that structures necessary for the rebuild are sited in the most landward feasible locations. The added findings also ensure that relocation of rebuild structures can only be utilized if the Planning Director can deem the

relocation substantially superior for safety or coastal resource impacts. The DMW waiver expiration has been expanded to include all structures allowed by a DMW instead of just driveway and OWTS improvements.

ZONING TEXT AMENDMENT

MMC Title 17 - Zoning

MMC Section 17.02.060 has been revised to include the definition for primary development area footprint, matching the LIP definition listed above. The term will be used in the MMC in a similar fashion to the LIP.

MMC Section 17.40.040(A)(18) has been revised to match the LIP section allowing a 1,000 square foot temporary housing structure. As mentioned previously, this will ensure the owner has the ability to convert their temporary structure to an ADU at a later date. The fine for violating the temporary housing laws has been revised to $500 instead of $100 to address issues that have developed after the Woolsey Fire where property owners were violating the temporary housing provisions and renting temporary structures out to individuals who had not lived on the property previously.

Additional language was also added to ensure that temporary housing structures will only be occupied by the property owner or tenant living on the property at the date of the natural disaster. The temporary housing structure shall not be rented out in any capacity other than to the original tenant or owner as of the date of the natural disaster. The new language will ensure that the temporary housing provisions will only benefit those displaced by the disaster, and not those seeking to take advantage of a rental situation. If a new property owner purchases the property, they will not be able to rent out the temporary structures to people other than those who were living on the property at the time of the disaster.

Lastly, regarding temporary homes, additional standards have been inserted due to geologic hazard concerns. Homeowners may wish to place temporary homes in geologic hazard areas which have no foundations and thus may be subject to safety issues. Requirements have been added that a limited geotechnical report be submitted by an applicant for review by the City's Building Official to assess safety concerns. For proposed temporary homes not on wheels or readily moveable trailers, requirements for foundations as noted in Chapter 16, 18 and Appendix G – Flood proof Construction of the current California Building Code and a building permit will be required from the City. The Planning Commission also added that temporary housing on wheels needs to be fastened to the ground.

MMC Section 17.44.050 has been included in Ordinance No. 524 for Council's consideration if they want to remove the requirement of a 20 foot wide access road for ADU's as was recommended by the Planning Commission.

MMC Section 17.44.090 regarding the recently adopted ADU ordinance was revised to allow a 1,000 square foot ADU regardless of bedroom count. This will make it easier for residents to select an ADU that meets their desires while limiting the size to that of what was approved by Council in 2024. This will also make finding and applying for a temporary home easier, if the homeowner wishes to make it a permanent ADU in the future.

MMC Section 17.45.150 related to Primary View Determinations (PVD) in disaster areas has been amended to set the start date as the date of the disaster, rather than February 1, 2019, which was the date the Woolsey Fire protections went into place. This revised language disallows PVDs in disaster areas for recent and future natural disasters for four years for replacement structures and 10 years for replacement landscaping from the date of the disaster.

MMC Section 17.53.090(C) related to landscaping and fire protection requirements has been revised to include additional restrictions on the types of plants and their proximity to structures. The proposed draft has been reviewed by LACFD officials. Ficus species has been added as disallowed within 50 feet of a structure as recommended by the Planning Commission. No vegetation will be allowed between zero and five feet of a structure, consistent with the Los Angeles County Fire Department fuel modification zone 0 requirements. After review from the LACFD, it was mentioned that turf grass may be allowed between two and five feet so it was added for the Council's consideration. Only low growing plants such as succulents, perennials, and ground cover will be allowed between five and 30 feet, consistent with best practice for plants allowed in fuel modification zone A. Only new plants native to the Santa Monica Mountains will be allowed beyond 30 feet from a structure (zones B and C). Irrigation will be required for all plants between five and 100 feet (zones A and B), except in geologic hazard areas where a review will be conducted to ensure that is the safest approach and to prevent overwatering landslide areas. Lastly, non-continuous mulch areas must be separated with non-flammable materials such as gravel, rocks, decomposed granite, or stone. These recommended amendments were proposed by the City Biologist and amended by the LACFD and Malibu staff.

MMC Section 17.60.020 was revised to allow nonconforming structures that were destroyed by a natural disaster to rebuild with an additional 10% (the same as was allowed for Woolsey Fire damaged structures) using a Planning Verification (PV) instead of an Administrative Plan Review (APR). The 110 percent PV process was only granted to those impacted by the 2018 Woolsey Fire, and not to others impacted by natural disaster. The

current language requires that those who take advantage of the 110 percent be subject to an APR which requires a Notice of Decision and additional review materials that can slow down the process. The PV process will be more efficient and save the property owners time and money while they rebuild. Subsection (1) was removed per the Planning Commission's recommendation to eliminate a redundancy covered in MMC Section 17.60.080.

MMC Section 17.62.030 related to Administrative Plan Reviews (APR) has been revised to include language that makes the section inapplicable to new structures allowed under a "rebuild development permit" (RDP), a new entitlement that is proposed to be introduced (details below). MMC Section 17.62.040 related to Site Plan Reviews (SPR) has been revised to ensure property owners who relocate their homes due to a geologic or coastal hazard and have development greater than 18 feet in height, obtain an SPR. Shoreline protection devices are currently allowed with a SPR but language was added to ensure that the shoreline protection devices approved under a DMW or RDP do not need to obtain an SPR. Findings have also been added to ensure that the replacement structures needing an SPR will have to go through a more rigorous design review to ensure neighbors are protected from impacts by any of the allowances. The SPR process will give neighbors and those impacted by the new development the ability to appeal any decision made by the Planning Director on these applications to the Planning Commission and City Council. Noticing requirements will ensure that property owners within 1,000 feet are notified of these changes and the ability to weigh in on the project. These applications seeking SPRs are still either exempt from the requirement to obtain a CDP, or they have obtained a DMW so there will be no appeal to the CCC.

Rebuild Development Permit

A new administrative permit is proposed to be added to help facilitate the rebuild process given the impact of the Executive Orders suspending the Coastal Act and the California Environmental Quality Act. Since Coastal Act provisions, including the City's LCP, are suspended for many projects in the Palisades Fire affected area, the City needs a way to ensure new development within the 110 percent footprint meets required design standards. MMC Section 17.62.080 introduces the Rebuild Development Permit (RDP) which will allow new structures to be built within 110 percent of the primary development area footprint. The provisions apply to projects for which the Governor's Executive Orders have suspended the Coastal Act. They include applications seeking mechanized equipment on the beach, OWTS replacement, new seawalls needed to protect OWTS, new structures needed to meet state and local law, and minor improvements to driveways including retaining walls developed on slopes steeper than 3:1 but not allowed on 1:1 slopes.

Typically, these types of development would be covered in a DMW application but since the Executive Order suspends the coastal act for structures damaged or destroyed in the

Palisades Fire, this section will serve to capture necessary permitting and design requirements. In the future, should another disaster cause for the suspension of the Coastal Act, these laws will be in place to facilitate the rebuild.

Planning Rebuild Applications

People affected by the Palisades Fire will need to obtain a Planning Verification to rebuild their properties back to 110 percent. They may also need subsequent Rebuild Development Permits to allow new structures necessary to rebuild their previous structures. Property owners on the beach that need to increase their height by more than the allowed 10 percent to meet FEMA floodplain standards or property owners in geologic hazard areas that need to relocate substantially outside the original footprint may apply or a DMW to achieve the result since those types of development do not fit in the Executive Order or current CDP Exemption language.

People affected by the Franklin and Broad Fires will also need a Planning Verification to rebuild their properties back to 110 percent. They may also apply for applicable RDPs and DMWs needed to facilitate their rebuilds. The major difference for the Palisades Fire versus the Franklin and Broad Fires is that the Palisades Fire projects will not be subject to the Coastal Act in many cases and will only need PVs and RDPs. While projects related to the Franklin and Broad Fires will still be subject to the Coastal Act, with these amendments (if certified) they will obtain similar relief and be able to process many more projects without the need for a full CDP.

ENVIRONMENTAL REVIEW: The Planning Director has analyzed the project proposal described herein. Pursuant to Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment, and thus does not apply to this application. This application is for an amendment to the LCP, which must be certified by the CCC before it takes effect. LIP Section 1.3.1 states that the provisions of the LCP take precedence over any conflict between the LCP and the City's Zoning Ordinance. In order to prevent an 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 corollary amendment is required by the adoption of the LCPA to avoid conflicts between the LCP and MMC and as it shall only be implemented if the LCPA is approved and is dependent upon, related to, and duplicative of, the exempt activity, it is subject to the same CEQA exemption.

In addition, CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Planning Director determined that there is no possibility the amendment will have a significant effect

on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies. The amendments to the MMC that are not corollary to the LCP can be seen not to have a significant effect on the environment as they merely create permit and fine requirements and allow structures that existed previously to be rebuilt in the same location with substantially the same purpose and capacity as the structure that would be replaced, while also further protecting coastal resources and hazard protections.

SUMMARY: Staff recommends that the City Council adopt Urgency Ordinance No. 524U (Attachment 1), and Ordinance No. 524 (Attachment 2) to amend the Malibu LCP and ZTA to amend Title 17 (Zoning) of the MMC to facilitate the rebuilding of structures damaged or destroyed by natural disasters, including but not limited to, the 2025 Palisades Fire, 2024 Franklin Fire, and 2024 Broad Fire to provide relief for those affected and provide a recommendation to the City Council regarding the amendments.

ATTACHMENTS:

1. Urgency Ordinance No. 524U
2. Ordinance No. 524
3. LCP Amendments in Underline/Strikethrough Format
4. MMC Amendments in Underline/Strikethrough Format
5. Planning Commission Resolution No. 25-37
6. Notice of Public Hearing
7. Executive Order N-20-25

ORDINANCE NO. 524U

AN URGENCY ORDINANCE OF THE CITY OF MALIBU APPROVING ZONING TEXT AMENDMENT NO. 25-001, AN AMENDMENT TO TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE UPDATING REGULATIONS TO FACILITATE THE REBUILDING OF STRUCTURES DAMAGED OR DESTROYED BY NATURAL DISASTERS, INCLUDING BUT NOT LIMITED TO, THE 2025 PALISADES FIRE, 2024 FRANKLIN FIRE, AND 2024 BROAD FIRE TO PROVIDE RELIEF FOR THOSE AFFECTED, DECLARING THE URGENCY THEREOF, AND FINDING THE AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

SECTION 1. Findings.

A. On November 6, 2024, the Broad Fire began and destroyed structures on at least 4 properties in Malibu leaving residents with an urgent need to rebuild.

B. On December 9, 2024, the Franklin Fire destroyed structures on at least 38 properties in Malibu leaving residents with an urgent need to rebuild.

C. On January 7, 2025, the Palisades Fire destroyed structures on over 700 properties in Malibu leaving residents with an urgent need to rebuild. The Governor of California has declared the event a State of Emergency and the President of the United States has declared the event a Federal Emergency.

D. On January 27, 2025, the City Council adopted Resolution No. 25-06 to: 1) initiate a Local Coastal Program (LCP) amendment and zoning text amendment to consider changes to the Malibu LCP and Title 17 (Zoning) of the Malibu Municipal Code (MMC) to facilitate the rebuilding of structures damaged or destroyed by the 2025 Palisades Fire, 2024 Franklin Fire, and 2024 Broad Fire and provide relief for those affected by the fires; 2) Bypass the Zoning Ordinance Revisions and Code Enforcement Subcommittee and directed the Planning Commission to schedule a public hearing regarding the same.

E. On February 13, 2025, Governor Newsom issued Executive Order N-20-25, which suspended requirements of the California Environmental Quality Act and California Coastal Act for Palisades Fire rebuilds and related issues.

F. A third of the City of Malibu geographically was impacted by the 2024/2025 wildfires in southern California. In the City alone, over 700 properties have been affected, leaving many property owners and constituents without a place to live and work. The Palisades Fire resulted not only in the loss of property but the loss of lives.

G. The 2018 Woolsey Fire, which affected Malibu and other parts of Los Angeles County, consumed over 96,000 acres and destroyed at least 480 structures in Malibu. The City is still rebuilding properties that were lost in that fire.

H. Current regulations within Malibu regarding the rebuilding of structures that were damaged and destroyed by a natural disaster can be complicated and inefficient and may impede homeowners from getting back into their homes in a timely manner.

I. In an effort to speed up the development process, while still ensuring safety and compliance with the federal, state and local law, the City of Malibu is easing some of the regulations to allow property owners the ability to rebuild their lost structures by 110 percent, consistent with the Governor's Executive Order.

J. The amendments will also allow displaced residents to expeditiously return to their properties as fast as possible via a temporary home. Many residents are underinsured and don't have the financial means to support renting another property.

K. The Malibu City Council finds that this ordinance is necessary for the preservation of the public peace, health, and safety of residents living and working within the City and finds urgency to approve this ordinance immediately based on the facts described above and below.

SECTION 2. Amendment.

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

A. Amend Section 17.02.060 related to definitions to include the following:

"Primary development area footprint" means the main building pad or development area which supported the primary building in which the principal use of the lot was situated or conducted, as distinguished from a secondary building pad or development area that is not attached to the main building pad or development area, for purposes of properties that were damaged or destroyed by a natural disaster. For beachfront lots, decks that were attached to the primary building shall be included in the primary development area footprint if replaced with another deck.

B. Amend Section 17.40.040(A)(18)(a) and (g) and add subsections (i), (j), and (k) to read as follows:

18. Temporary Housing. Temporary housing structures as used herein means mobilehomes, trailers, recreational vehicles or other structures which are self-contained units which include sanitary facilities, and facilities for normal daily routines including cooking and sleeping. Temporary housing structures do not include any structure placed upon a permanent foundation, nor do they include tents, yurts, or similar fabric or textile installations. Temporary housing structures used as a residence during reconstruction or in anticipation of reconstruction of a residence destroyed due to natural disaster shall be permitted with a temporary

housing permit approved by the Planning Director and shall comply with the following conditions:

a. No more than two temporary housing structures which together total no more than 1,000 square feet shall be permitted.

g. Upon expiration of the temporary housing permit, the property owner shall obtain verification from the city that all temporary housing structures have been removed from the property. Failure to obtain this verification shall result in a fine of $500 per day until the verification is obtained.

i. The temporary housing structures shall only be occupied by the property owner(s) or tenant(s) living on the property at the date of the natural disaster. The temporary housing structure must be occupied by the property owner(s) or the tenant(s) at the date of the natural disaster or the property owner(s) will be subject to a fine of $500 per day until corrected. Liens may also be imposed on the property by the City as a means of compliance.

j. The siting of temporary housing shall be supported by a limited geotechnical report prepared by appropriately licensed professionals which evaluates the location of the proposed temporary housing with respect to geologic and flood hazards that the specific location(s) may be exposed to during the proposed four-year use of the location. Specifically, the threat of post-fire debris flows and floods as described by the United States Geological Survey and identified by the Watershed Emergency Response Team Assessments. A finding is required that the specific location of the temporary housing is safe for its intended use for the duration of use. The report must be submitted to the City for review and accepted by the Building Official.

k. If the temporary housing is supported on anything other than wheels or a trailer which can be readily moved (i.e. a manufactured home), it shall comply with requirements for foundations as noted in Chapter 16, 18 and Appendix G – Flood proof Construction of the current California Building Code and requires a building permit from the City. Temporary housing supported on wheels shall be fastened to the ground.

C. Amend Section 17.44.090(A)(1), to read as follows:

1. The maximum square footage of an ADU shall be 1,000 square feet. The maximum square footage shall include interior and exterior walls, finished and unfinished basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage (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.

D. Amend Section 17.45.150(B), to read as follows:

B. Prohibition. All properties within a disaster area are temporarily prohibited from obtaining a new or updated primary view determination unless: (1) the request was submitted prior to the date the natural disaster began as declared or proclaimed by the City, State or Federal government, or as determined by the Planning Director if no declaration or proclamation has been made; or (2) the primary view determination would not impose any limitation on replacement landscaping or replacement structures.

E. Amend Section 17.53.090(C)(1)(b),(c), (e), and (f) and add subsections (h), (i), and (j); and amend Section 17.53.090(C)(2), to read as follows:

b. All vegetation is prohibited between zero and five feet from a structure. Turf grass is allowed between two and five feet.

c. The following species are prohibited within 50 feet of structures: Eucalyptus (Eucalyptus gum tree), Pine (Pinus species), Cypress (Cupressus species), Cedar (Cedrus species), Ficus (Ficus species), and Tree of Heaven (Ailanthus altissima).

e. Existing eucalyptus trees are allowed between five feet and 50 feet of a structure if a qualified expert, as determined by the director, identifies the tree(s) as a monarch butterfly habitat. New eucalyptus trees are prohibited within 50 feet of a structure.

f. The distances for trees and shrubs subject to (b) through (e) shall be measured from the dripline of the tree or shrub at its projected maturity to the outermost projection of the structure including eaves and overhangs. No tree canopy shall be within five feet of the outermost projection of the structure including eaves and overhangs at projected maturity. Smaller diameter tree branches less than two inches must be removed within five feet of the outermost projection of the structure including eaves and overhangs and within 10 feet above the roof.

h. Only efficiently-irrigated, plants shall be allowed between five feet and 30 feet of a structure.

i. Irrigation shall be required and maintained on the site in all planting areas between five feet and 100 feet of a structure, except in geologic hazard areas in which irrigation may not be allowed. Any proposed irrigation shall be reviewed by the project geotechnical consultant and conform to existing surficial stability standards, not contribute to any geologic hazard, and not adversely affect offsite properties. The consultant shall include a statement regarding the impact of the proposed irrigation system in the required Section 111 statement. The city shall review analyses and findings provided by the project geotechnical consultant and determine whether irrigation is allowed or required in geologic hazard areas. All vegetation within 100 feet of a structure shall maintain sufficient moisture content and be supported by appropriately designed irrigation.

j. Plants listed in the City of Malibu ‘Invasive Species List’ are prohibited.

2. Mulch material proposed between zero and five feet from a structure must consist of nonflammable materials, such as gravel and decomposed granite. Flammable mulch material, including shredded bark, pine needles, and artificial turf, are prohibited between zero and five feet of a structure. Use of wood chips and shredded rubber is prohibited anywhere on the site. Non-continuous use of flammable mulch (excluding wood chips and shredded rubber) is allowed between five feet and 30 feet from a structure. Non-continuous mulched areas shall be separated with non-flammable materials such as gravel, rocks, decomposed granite, or stone. The distance shall be measured from the outermost projection of the structure including eaves and overhangs. The maximum application area of mulch located between five feet and 30 feet from a structure is 20 feet by 20 feet with a five-foot separation between application areas. Any mulch materials (excluding wood chips and shredded rubber), are allowed 30 feet or more from a structure with no limitation on application area. Organic mulch shall be maintained with at least a 3 inches depth, but must not exceed 6 inches in depth.

F. Amend Section 17.60.020(C), to read as follows:

C. Any structure, including any structure that was damaged or destroyed by a natural disaster, 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. Structures that were damaged or destroyed by a natural disaster may be permitted, at the discretion of the planning director through approval of a planning verification, to increase the square footage, height or bulk permitted by this title by 10 percent of the existing or previously existing square footage, height or bulk of the structure. Increased height or bulk on non-beachfront properties shall not exceed 18 feet, unless a site plan review is obtained, and increased square footage shall not exceed the limits of Section 17.40.040(A)(13). The application for the reconstruction must be initiated with the city within six years of the date of damage or destruction, and a building permit must be diligently pursued and obtained within eight years from the date of damage or destruction and not expired. A request for an extension of time past the six-year or eight-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 six- or eight-year limit creates an undue hardship. Extensions for applications may not total more than three years for a maximum total of nine years from the date of the disaster. Extensions for building permits may not total more than three years for a maximum total of eleven years from the date of the disaster. Any reconstruction shall extend the termination date described in Section 17.60.040 for the use operating within such a structure.

G. Delete Section 17.60.020(F).

H. Amend Section 17.62.030(A), to read as follows:

A. An administrative plan review shall be required for the following development projects, unless they fall under the provisions for a rebuild development permit as provided in Section 17.62.080. If the project meets the requirements of this title and is consistent with Chapter 17.40, the planning manager/ director shall issue a development permit.

I. Amend Section 17.62.040(A), (A)(10); and add subsection (A)(13) and (C)(1), to read as follows:

A. The planning manager/director may approve a site plan review after consultation with all appropriate city staff and specialists including the building official, city engineer, city biologist, city geologist, city archeologist and city coastal engineer; and where substantial evidence supports the findings set forth in subsection D of this section for new construction or reconstruction of structures authorizing the following:

10. Sea walls, bulkheads, or any other shoreline protective devices, except for those that meet the requirements for a De Minimis Waiver listed in LIP Section 13.4.11 or rebuild development permit listed in Section 17.62.080 as required;

13. Non-beachfront development over 18 feet in height on a replacement structure where the previously existing structure was damaged or destroyed by a natural disaster and the replacement structure is not sited in the same general location on the affected property as the damaged or destroyed structure, so long as the new location is substantially superior after considering the impact of the relocation on ESHA, visual resources, and safety; with safety being the primary consideration.

C. Notice of Application Filing. Within 10 calendar days from the receipt date of a complete application, the planning manager/director shall notify in writing of the filing of the application to property owners and residents of all property within a 500 foot radius of the proposed project, but in no event fewer than the owners and occupants of 10 developed properties. Notwithstanding the foregoing, for property in the RR-10 and RR-20 zones the notice radius shall be 1,000 feet. The purpose of the notice is to inform the surrounding property owners and residents of the filing of the application and provide an opportunity for comment on the application prior to the planning manager/director's decision. The notice shall describe the request, provide a map showing the specific location of the property, describe the review process and timeframes, and indicate how to contact the case planner assigned to the application.

1. For replacement structures that are not sited in the same location on the affected property as the destroyed structures and includes development over 18 feet in height, a notice of application shall be provided to all properties within a 1,000 foot radius of the development.

J. Add Section 17.62.080. Rebuild development permit, to read as follows:

A. A rebuild development permit shall be required for the following development projects related to structures being replaced after being damaged or destroyed in a natural disaster. It shall be issued by planning manager/director upon demonstrating by a preponderance of the evidence that all requirements of the municipal code are met, as applicable.

1. Mechanized equipment or temporary shoring on the beach necessary to construct beachfront properties so long as construction activities do not enter the intertidal zone and in no case shall extend beyond the previously existing primary development area footprint.

2. An onsite wastewater treatment system (OWTS) that replaces or improves an OWTS serving a structure that that was damaged or destroyed by a natural disaster.

a. OWTS replacements on a sandy beach or coastal bluff shall be sited the most landward feasible as determined by appropriate city staff, shall not impact existing public accessways, and shall not extend seaward of the previously existing primary development area footprint.

b. OWTS replacements shall be located in least environmentally impactful area.

3. New seawalls, as determined necessary by the planning director or building official to protect coastal resources, that protect an OWTS serving a structure that was damaged or destroyed by a natural disaster. New seawalls shall be sited only at the boundary of OWTS that it protects. New seawalls shall not extend into any existing public access easements or public access deed restrictions, excluding any such easements or deed restrictions on the seaward side of the OWTS it protects, and shall not expand further into previously approved public view corridors or further into open space deed restrictions.

4. Any new structure or improvement (including, but not limited to, foundation systems, utilities, and driveways) that is necessary to construct, install, or use the replacement structure described in subsection (A) in compliance with all applicable state and local laws and regulations.

5. Minor improvements to existing driveways or access roads that are required by the fire department after a natural disaster, such as minor changes to the width or grade of driveways or access roads. Accessory structures, such as retaining walls, necessary to accommodate the driveway or access road improvement shall also be allowed, including new cuts on slopes steeper than 3:1 but shall not exceed 1:1 or steeper. Retaining walls shall not exceed six feet in height for any one wall, nor twelve (12) feet for any combination of walls (including required freeboard), and which shall be separated by at least three feet. Improvements shall not extend into a public access easement or public access deed restriction and shall not expand further into a previously approved public view corridor (except for on-grade driveways), or further into open space deed restrictions. Access improvements that do not meet the requirements of this subsection may be processed as an administrative coastal development permit or as a regular coastal development permit as listed in the Malibu LIP.

B. Application Submittal. An application shall be filed with the planning division and may be part of the planning verification application for replacement structures that were damaged or destroyed by a natural disaster. Applications shall be complete only after all required information is submitted; review by all appropriate city staff and specialists including review by the building official, city engineer, city biologist, city geologist, city archeologist, city coastal engineer and city environmental health specialist, as deemed necessary, is complete; and the application fee determined by resolution of the city council is paid.

C. Action. The planning manager/director shall approve, deny, or approve with conditions a rebuild development permit within 15 calendar days from the date of a complete application. Complete application determinations shall be determined solely by the City. The City may include incomplete/or nonconforming plans as a basis for an incomplete application in addition to standard application requirements. No decision shall be subject to invalidation on the grounds that it is made after the deadline. The applicant shall be informed of the action by letter and/or approved plans. Action of the planning manager/director shall be final and not appealable.

D. Expiration. An approved rebuild development permit shall expire three years from the date of final approval, unless a time extension has been granted, or work has commenced and substantial progress made (as determined by the building official) and the work is continuing under a valid building permit. If no building permit is required, the rebuild development permit approval shall expire after three years from the date of final planning approval if construction is not completed. If a rebuild development permit is included within a planning verification application pursuant to Section 17.60.020(C), then the rebuild development permit shall expire when the planning verification expires.

E. Extension. The planning manager/director may grant up to four one-year extensions of the expiration of a rebuild development permit approval, if the planning manager/director finds, Based on substantial evidence, that due to unusual circumstances, strict compliance with the expiration date of the permit would create an undue hardship for the applicant.

SECTION 3. 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 LCPA 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.

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 Commission determined that there is no possibility the amendment will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies. The amendments to the MMC that are not corollary to the LCP can be seen not to have a significant effect on the environment as they merely create permit and fine requirements and allow structures that existed previously to be rebuilt in the same location with substantially the same purpose and capacity as the structure that would be replaced, while also further protecting coastal resources and hazard protections.

SECTION 4. Urgency Finding.

The City Council finds and declares that the adoption of this Urgency Ordinance is necessary for the immediate preservation of the public peace, health, and safety. The 2025 Palisades Fire, 2024 Franklin Fire and 2024 Broad Fire destroyed hundreds of properties causing a declaration of emergency from the President of the United States as well as the Governor of California and the City of Malibu. Property owners have been left displaced and many are underinsured or do not have the financial means to be off of their properties for extended periods of time. The Council therefore finds and determines that 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 5. Effective Date.

This Ordinance shall be effective immediately upon its adoption by four-fifths of the City Council.

SECTION 6. Severability.

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

SECTION 7. Certification.

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

PASSED, APPROVED, and ADOPTED this _____ day of _____ 2024.

_____
DOUG STEWART, Mayor

ATTEST:

_____
KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

_____
TREVOR RUSIN, Interim City Attorney

ORDINANCE NO. 524

AN ORDINANCE OF THE CITY OF MALIBU APPROVING LOCAL COASTAL PROGRAM AMENDMENT 25-001, AN AMENDMENT TO THE LOCAL COASTAL PROGRAM AND ZONING TEXT AMENDMENT NO. 25-001, AN AMENDMENT TO TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE UPDATING REGULATIONS TO FACILITATE THE REBUILDING OF STRUCTURES DAMAGED OR DESTROYED BY NATURAL DISASTERS, INCLUDING BUT NOT LIMITED TO, THE 2025 PALISADES FIRE, 2024 FRANKLIN FIRE, AND 2024 BROAD FIRE TO PROVIDE RELIEF FOR THOSE AFFECTED, AND FINDING THE AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

SECTION 1. Recitals.

A. On November 6, 2024, the Broad Fire began and destroyed structures on at least 4 properties in Malibu leaving residents with an urgent need to rebuild.

B. On December 9, 2024, the Franklin Fire destroyed structures on at least 38 properties in Malibu leaving residents with an urgent need to rebuild.

C. On January 7, 2025, the Palisades Fire destroyed structures on over 700 properties in Malibu leaving residents with an urgent need to rebuild. The Governor of California has declared the event a State of Emergency and the President of the United States has declared the event a Federal Emergency.

D. On January 27, 2025, the City Council adopted Resolution No. 25-06 to: 1) initiate a Local Coastal Program (LCP) amendment and zoning text amendment to consider changes to the Malibu LCP and Title 17 (Zoning) of the Malibu Municipal Code (MMC) to facilitate the rebuilding of structures damaged or destroyed by the 2025 Palisades Fire, 2024 Franklin Fire, and 2024 Broad Fire and provide relief for those affected by the fires; 2) Bypass the Zoning Ordinance Revisions and Code Enforcement Subcommittee and directed the Planning Commission to schedule a public hearing regarding the same.

E. On January 30, 2025, 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.

F. On February 6, 2025, a Notice of Planning Commission Public Hearing was republished in a newspaper of general circulation within the City of Malibu as a courtesy.

G. On February 13, 2025, Governor Newsom issued Executive Order N-20-25, which suspended requirements of the California Environmental Quality Act and California Coastal Act for Palisades Fire rebuilds and related issues.

H. On February 13, 2025, a Notice of Availability of Local Coastal Program Amendment (LCPA) Documents was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

I. On February 20, 2025 the Planning Commission held a duly noticed public hearing on the proposed rebuild amendments on LCPA 25-001 and ZTA No.25-001, 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 LCPA 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.

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 Commission determined that there is no possibility the amendment will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies. The amendments to the MMC that are not corollary to the LCP can be seen not to have a significant effect on the environment as they merely create permit and fine requirements and allow structures that existed previously to be rebuilt in the same location with substantially the same purpose and capacity as the structure that would be replaced, while also further protecting coastal resources and hazard protections.

SECTION 3. Local Coastal Program Findings.

Based on evidence contained within the record, including the agenda reports for and the hearings on February 20 and March 4, 2025, 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 rebuild projects that were destroyed in natural disaster and relief for those affected, ensure that development standards are in place to facilitate people getting their properties back to where they were before the natural disaster while also incorporating measures that will further enhance and

protect coastal resources. Development standards were carefully crafted to meet the goals of the of the LCP.

B. As a part of the LIP, the updated development standards specific to rebuild projects that were destroyed in natural disaster and providing relief for those affected 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 rebuild structures to avoid coastal accessways, be sited the most landward feasible and the installation of structures that will protect the coastal resources from contamination greater than current.

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. 25-001, Amendments to the Local Implementation Plan (LIP).

The City Council hereby amends the LIP as follows:

A. Amend Section 2.1 related to LIP definitions to include the following:

PRIMARY DEVELOPMENT AREA FOOTPRINT - the main building pad or development area which supported the primary building in which the principal use of the lot was situated or conducted, as distinguished from a secondary building pad or development area that is not attached to the main building pad or development area, for purposes of properties that were damaged or destroyed by a natural disaster. For beachfront lots, decks that were attached to the primary building shall be included in the primary development area footprint if replaced with another deck.

B. Amend Section 3.6(M)(1) related to residential development standards for temporary homes, to read as follows:

1. No more than two temporary housing structures which together total no more than one thousand (1,000) square feet shall be permitted.

C. Amend LIP Section 13.4.6(A) and (B), and add Section 13.4.6(A)(4) related to coastal development permit exemptions, to read as follows:

A. The replacement of any structure, other than a public works facility, destroyed by a disaster provided that the replacement structure meets all the of the following criteria:

1. It is for the same use as the destroyed structure;
2. It does not exceed either the floor area, height, or bulk of the destroyed structure by more than ten (10) percent, and
3. It is sited in substantially the same location on the affected property as the destroyed structure.

As used in this section, "structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

4. Mechanized equipment or temporary shoring on the beach necessary to construct the replacement structure is allowed under this exemption for beachfront properties only if there are no feasible alternatives and construction activities do not enter the intertidal zone or extend beyond the previously existing primary development area footprint, and appropriate Best Management Practices are used.

B. An onsite wastewater treatment system (OWTS) that was damaged or destroyed by a natural disaster may be replaced and improved provided that the replacement OWTS is located within the existing primary development area footprint and is the minimum standard size necessary to meet the building code for the existing or replacement structure it serves. If the new OWTS exceeds the minimum standard size or is located outside the primary development area footprint, then a De Minimis Waiver or OWTS Coastal Development Permit shall be required as applicable by Sections 13.4.11 and 13.29 respectively. For OWTS replacements on or adjacent to a sandy beach or coastal bluff, the OWTS shall be sited in the most landward location feasible and may not extend further seaward than the existing and/or previously existing seawall, whichever is more landward.

D. Amend LIP Section 13.4.11(A)(1) and (2), and add subsections (3), (4), (5), and (6); Amend 13.4.11(B)(1),(2), (3), and (5) and add subsection (6); Amend 13.4.11(C)(3); and amend 13.4.11(D), related to general requirements for de minimis waiver, to read as follows:

13.4.11 General Requirements for De Minimis Waiver

A. General Requirements for De Minimis Waiver.

The requirement for a coastal development permit may be waived through a De Minimis Coastal Development Permit Waiver issued by the planning director for the items listed below where the improvements are not otherwise exempt pursuant to Section 13.4, provided all the requirements of subsections B and C are met. The planning director's decision on whether to issue a de minimis waiver is not locally appealable.

1. Improvements to an onsite wastewater treatment system (OWTS) serving a structure that replaces one that was damaged or destroyed as a result of a natural disaster, where the improvements involve installing a new system or upgrading an existing system to an advanced system on the same lot in a location outside of the primary development area footprint.
2. Minor improvements to existing driveways or access roads that are required by the fire department after a natural disaster, such as minor changes to the width or grade of driveways or access roads. This includes accessory structures, such as retaining walls, necessary to accommodate the driveway or access road improvement, including new cuts on slopes steeper than 3:1 but less than 1:1, subject to geotechnical feasibility review. Retaining walls shall not exceed six feet in height. New retaining walls that replace an existing wall being removed as a result of the driveway widening are allowed to be replaced to the same height of previous wall and may increase in height by a maximum of three (3) additional feet but shall not have a total height in excess of nine (9) feet. Access improvements that do not meet the findings for a waiver may be processed as an administrative coastal development permit (ACDP) under Section 13.13.1(A) or as a regular coastal development permit.
3. Replacement seawalls that exceed ten (10) percent in height. The replacement seawall shall be sited in the same footprint as the previous seawall and shall not expand further seaward nor shall it extend further into an existing public access easement, deed restriction or view corridor.
4. Height increases beyond ten (10) percent for structures that are located on, or adjacent to, the sandy beach that would otherwise be exempt from the requirement to obtain a coastal development permit pursuant to Section 13.4.6(A) where the previous finished floor elevation must be raised more than ten (10) percent higher than the previous height to meet Federal Emergency Management Agency (FEMA) flood zone requirements as determined by the City’s floodplain administrator. Such height increase shall not exceed the increase in height to the finished floor required to meet the minimum FEMA flood zone requirements even if creating a nonconforming condition as measured from the centerline of the nearest adjacent public or private road.
5. Replacement structures that would otherwise be exempt from the requirement to obtain a coastal development permit pursuant to Section 13.4.6(A) but are proposed to be sited substantially outside the same location where the damaged or destroyed structure was located so long as the new location is substantially superior after considering the impact of the relocation on ESHA, visual resources, and safety; with safety being the primary consideration. This waiver may include retaining

walls and grading necessary for the construction of the relocated structure, but cuts may not be made into slopes steeper than 1:1 and retaining walls shall not exceed six feet in height for any one wall, nor twelve (12) feet for any combination of walls (including required freeboard), and which shall be separated by at least three feet.

6. Water tanks and other water storage devices necessary to construct, install, or use a replacement structure that was damaged or destroyed by a natural disaster and as required by applicable federal, state and local laws and regulations. New shoreline protection devices are not included under this waiver.

B. Findings for and Reporting of De Minimis Waivers.

All decisions on de minimis waivers shall be accompanied by written findings:

1. That the structures or improvements have no potential for adverse effects, either individually or cumulatively, on coastal resources or public access to the shoreline or along the coast.
2. That the structures or improvements are consistent with the certified Malibu Local Coastal Program, including the resource protection policies, as applicable.
3. If an OWTS is to be relocated on the lot, that the director, in consultation with the environmental health administrator, has determined the relocation is necessary to better protect coastal resources and if on a beachfront lot, is no further seaward than the existing OWTS or no further seaward than the previously existing seawall, whichever is further landward.
4. If driveway/road improvements are proposed, that: (a) they are in the same general alignment as the existing road; (b) they are not located in environmentally sensitive habitat area (ESHA); (c) they do not remove or encroach within the protected zone of native trees; and (d) they do not adversely impact visual resources.
5. That the development is not in a location where an action on the development would be appealable to the coastal commission, unless the replacement structure qualifies under Section 13.4.11(A)(3) and (4), or serves a structure that qualifies as exempt from a coastal development permit pursuant to Section 13.4.6. (See Chapter 2 – Definitions).
6. For relocation pursuant to Section 13.4.11(A)(5), that the new location is substantially superior after considering the impact of the relocation on ESHA, visual resources, and primarily safety.

C. Reporting De Minimis Waiver.

1. At the time the application is submitted for filing, the applicant must post, at a conspicuous place as close to the site as possible that is easily accessible by the public and approved by the city, notice, on a form approved by the city, that an application for a de minimis waiver has been submitted to the city. Such notice shall contain a general description of the nature of the proposed development.
2. The planning director shall issue a notice of determination on the application which shall be reported to the planning commission. The notice of determination shall be provided to all known interested parties, including the executive director of the

coastal commission, at least ten (10) days prior to the waiver determination being reported to the planning commission.

3. If, after consideration of the waiver and any public objections to it, the planning commission requests that the waiver not be effective, then the applicant shall be advised that a Coastal development permit is required for the structures or improvements. Otherwise, the waiver is effective immediately after the planning commission meeting where the matter is heard.

D. Waiver Expiration.

A de minimis waiver shall expire and be of no further force and effect if the authorized structures or improvements are not commenced pursuant to a valid grading and/or building permit, as applicable, within five years of the effective date of the waiver. If expired, a coastal development permit or another waiver shall be required.

SECTION 6. Zoning Text Amendment No. 25-001, Amendments to the Malibu Municipal Code (MMC).

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

A. Amend Section 17.02.060 related to definitions to include the following:

"Primary development area footprint" means the main building pad or development area which supported the primary building in which the principal use of the lot was situated or conducted, as distinguished from a secondary building pad or development area that is not attached to the main building pad or development area, for purposes of properties that were damaged or destroyed by a natural disaster. For beachfront lots, decks that were attached to the primary building shall be included in the primary development area footprint if replaced with another deck.

B. Amend Section 17.40.040(A)(18)(a) and (g) and add subsections (i), (j), and (k) to read as follows:

18. Temporary Housing. Temporary housing structures as used herein means mobilehomes, trailers, recreational vehicles or other structures which are self-contained units which include sanitary facilities, and facilities for normal daily routines including cooking and sleeping. Temporary housing structures do not include any structure placed upon a permanent foundation, nor do they include tents, yurts, or similar fabric or textile installations. Temporary housing structures used as a residence during reconstruction or in anticipation of reconstruction of a residence destroyed due to natural disaster shall be permitted with a temporary housing permit approved by the Planning Director and shall comply with the following conditions:

a. No more than two temporary housing structures which together total no more than 1,000 square feet shall be permitted.

g. Upon expiration of the temporary housing permit, the property owner shall obtain verification from the city that all temporary housing structures have been removed from the property. Failure to obtain this verification shall result in a fine of $500 per day until the verification is obtained.

i. The temporary housing structures shall only be occupied by the property owner(s) or tenant(s) living on the property at the date of the natural disaster. The temporary housing structure must be occupied by the property owner(s) or the tenant(s) at the date of the natural disaster or the property owner(s) will be subject to a fine of $500 per day until corrected. Liens may also be imposed on the property by the City as a means of compliance.

j. The siting of temporary housing shall be supported by a limited geotechnical report prepared by appropriately licensed professionals which evaluates the location of the proposed temporary housing with respect to geologic and flood hazards that the specific location(s) may be exposed to during the proposed four-year use of the location. Specifically, the threat of post-fire debris flows and floods as described by the United States Geological Survey and identified by the Watershed Emergency Response Team Assessments. A finding is required that the specific location of the temporary housing is safe for its intended use for the duration of use. The report must be submitted to the City for review and accepted by the Building Official.

k. If the temporary housing is supported on anything other than wheels or a trailer which can be readily moved (i.e. a manufactured home), it shall comply with requirements for foundations as noted in Chapter 16, 18 and Appendix G – Flood proof Construction of the current California Building Code and requires a building permit from the City. Temporary housing supported on wheels shall be fastened to the ground.

C. Amend Section 17.44.090(A)(1), to read as follows:

1. The maximum square footage of an ADU shall be 1,000 square feet. The maximum square footage shall include interior and exterior walls, finished and unfinished basements, mezzanines, storage space, and any space with a height clearance (floor to ceiling height dimension) above six feet. The area of a garage (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.

D. Amend Section 17.45.150(B), to read as follows:

B. Prohibition. All properties within a disaster area are temporarily prohibited from obtaining a new or updated primary view determination unless: (1) the request was submitted prior to the date the natural disaster began as declared or proclaimed by

the City, State or Federal government, or as determined by the Planning Director if no declaration or proclamation has been made; or (2) the primary view determination would not impose any limitation on replacement landscaping or replacement structures.

E. Amend Section 17.53.090(C)(1)(b), (c), (e), and (f) and add subsections (h), (i), and (j); and amend Section 17.53.090(C)(2), to read as follows:

b. All vegetation is prohibited between zero and five feet from a structure. Turf grass is allowed between two and five feet.

c. The following species are prohibited within 50 feet of structures: Eucalyptus (Eucalyptus gum tree), Pine (Pinus species), Cypress (Cupressus species), Cedar (Cedrus species), Ficus (Ficus species), and Tree of Heaven (Ailanthus altissima).

e. Existing eucalyptus trees are allowed between five feet and 50 feet of a structure if a qualified expert, as determined by the director, identifies the tree(s) as a monarch butterfly habitat. New eucalyptus trees are prohibited within 50 feet of a structure.

f. The distances for trees and shrubs subject to (b) through (e) shall be measured from the dripline of the tree or shrub at its projected maturity to the outermost projection of the structure including eaves and overhangs. No tree canopy shall be within five feet of the outermost projection of the structure including eaves and overhangs at projected maturity. Smaller diameter tree branches less than two inches must be removed within five feet of the outermost projection of the structure including eaves and overhangs and within 10 feet above the roof.

h. Only efficiently-irrigated plants shall be allowed between five feet and 30 feet of a structure.

i. Irrigation shall be required and maintained on the site in all planting areas between five feet and 100 feet of a structure, except in geologic hazard areas in which irrigation may not be allowed. Any proposed irrigation shall be reviewed by the project geotechnical consultant and conform to existing surficial stability standards, not contribute to any geologic hazard, and not adversely affect offsite properties. The consultant shall include a statement regarding the impact of the proposed irrigation system in the required Section 111 statement. The city shall review analyses and findings provided by the project geotechnical consultant and determine whether irrigation is allowed or required in geologic hazard areas. All vegetation within 100 feet of a structure shall maintain sufficient moisture content and be supported by appropriately designed irrigation.

j. Plants listed in the City of Malibu ‘Invasive Species List’ are prohibited.

2. Mulch material proposed between zero and five feet from a structure must consist of nonflammable materials, such as gravel and decomposed granite. Flammable mulch material, including shredded bark, pine needles, and artificial turf, are prohibited between zero and five feet of a structure. Use of wood chips and shredded rubber is prohibited anywhere on the site. Non-continuous use of

flammable mulch (excluding wood chips and shredded rubber) is allowed between five feet and 30 feet from a structure. Non-continuous mulched areas shall be separated with non-flammable materials such as gravel, rocks, decomposed granite, or stone. The distance shall be measured from the outermost projection of the structure including eaves and overhangs. The maximum application area of mulch located between five feet and 30 feet from a structure is 20 feet by 20 feet with a five-foot separation between application areas. Any mulch materials (excluding wood chips and shredded rubber), are allowed 30 feet or more from a structure with no limitation on application area. Organic mulch shall be maintained with at least a 3 inch depth but must not exceed 6 inches in depth.

F. Amend Section 17.60.020(C), to read as follows:

C. Any structure, including any structure that was damaged or destroyed by a natural disaster, 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. Structures that were damaged or destroyed by a natural disaster may be permitted, at the discretion of the planning director through approval of a planning verification, to increase the square footage, height or bulk permitted by this title by 10 percent of the existing or previously existing square footage, height or bulk of the structure. Increased height or bulk on non-beachfront properties shall not exceed 18 feet, unless a site plan review is obtained, and increased square footage shall not exceed the limits of Section 17.40.040(A)(13). The application for the reconstruction must be initiated with the city within six years of the date of damage or destruction, and a building permit must be diligently pursued and obtained within eight years from the date of damage or destruction and not expired. A request for an extension of time past the six-year or eight-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 six- or eight-year limit creates an undue hardship. Extensions for applications may not total more than three years for a maximum total of nine years from the date of the disaster. Extensions for building permits may not total more than three years for a maximum total of eleven years from the date of the disaster. Any reconstruction shall extend the termination date described in Section 17.60.040 for the use operating within such a structure.

G. Delete Section 17.60.020(F).

H. Amend Section 17.62.030(A), to read as follows:

A. An administrative plan review shall be required for the following development projects, unless they fall under the provisions for a rebuild development permit as provided in Section 17.62.080. If the project meets the requirements of this title and is consistent with Chapter 17.40, the planning manager/ director shall issue a development permit.

I. Amend Section 17.62.040(A) and (A)(10); and add subsection (A)(13) and (C)(1), to read as follows:

A. The planning manager/director may approve a site plan review after consultation with all appropriate city staff and specialists including the building official, city engineer, city biologist, city geologist, city archeologist and city coastal engineer; and where substantial evidence supports the findings set forth in subsection D of this section for new construction or reconstruction of structures authorizing the following:

10. Sea walls, bulkheads, or any other shoreline protective devices, except for those that meet the requirements for a De Minimis Waiver listed in LIP Section 13.4.11 or rebuild development permit listed in Section 17.62.080 as required;

13. Non-beachfront development over 18 feet in height on a replacement structure where the previously existing structure was damaged or destroyed by a natural disaster and the replacement structure is not sited in the same general location on the affected property as the damaged or destroyed structure, so long as the new location is substantially superior after considering the impact of the relocation on ESHA, visual resources, and safety; with safety being the primary consideration.

C. Notice of Application Filing. Within 10 calendar days from the receipt date of a complete application, the planning manager/director shall notify in writing of the filing of the application to property owners and residents of all property within a 500 foot radius of the proposed project, but in no event fewer than the owners and occupants of 10 developed properties. Notwithstanding the foregoing, for property in the RR-10 and RR-20 zones the notice radius shall be 1,000 feet. The purpose of the notice is to inform the surrounding property owners and residents of the filing of the application and provide an opportunity for comment on the application prior to the planning manager/director's decision. The notice shall describe the request, provide a map showing the specific location of the property, describe the review process and timeframes, and indicate how to contact the case planner assigned to the application.

1. For development over 18 feet in height where the replacement structure is not proposed to be sited in the same location on the affected property as the damaged or destroyed structure, a notice of application shall be provided to all properties within a 1,000 foot radius of the development.

J. Add Section 17.62.080. Rebuild development permit, to read as follows:

A. A rebuild development permit shall be required for the following development projects related to structures being replaced after being damaged or destroyed in a natural disaster. It shall be issued by planning manager/director upon demonstrating

by a preponderance of the evidence that all requirements of the municipal code are met, as applicable.

1. Mechanized equipment or temporary shoring on the beach necessary to construct beachfront properties so long as construction activities do not enter the intertidal zone and in no case shall extend beyond the previously existing primary development area footprint.
2. An onsite wastewater treatment system (OWTS) that replaces or improves an OWTS serving a structure that that was damaged or destroyed by a natural disaster.

a. OWTS replacements on a sandy beach or coastal bluff shall be sited the most landward feasible as determined by appropriate city staff, shall not impact existing public accessways, and shall not extend seaward of the previously existing primary development area footprint.
b. OWTS replacements shall be located in least environmentally impactful area.

3. New seawalls, as determined necessary by the planning director or building official to protect coastal resources, that protect an OWTS serving a structure that was damaged or destroyed by a natural disaster. New seawalls shall be sited only at the boundary of OWTS that it protects. New seawalls shall not extend into any existing public access easements or public access deed restrictions, excluding any such easements or deed restrictions on the seaward side of the OWTS it protects, and shall not expand further into previously approved public view corridors or further into open space deed restrictions.
4. Any new structure or improvement (including, but not limited to, foundation systems, utilities, and driveways) that is necessary to construct, install, or use the replacement structure described in subsection (A) in compliance with all applicable state and local laws and regulations.
5. Minor improvements to existing driveways or access roads that are required by the fire department after a natural disaster, such as minor changes to the width or grade of driveways or access roads. Accessory structures, such as retaining walls, necessary to accommodate the driveway or access road improvement shall also be allowed, including new cuts on slopes steeper than 3:1 but shall not exceed 1:1 or steeper. Retaining walls shall not exceed six feet in height for any one wall, nor twelve (12) feet for any combination of walls (including required freeboard), and which shall be separated by at least three feet. Improvements shall not extend into a public access easement or public access deed restriction and shall not expand further into a previously approved public view corridor (except for on-grade driveways), or further into open space deed restrictions. Access improvements that do not meet the requirements of this subsection may be processed as an administrative coastal development permit or as a regular coastal development permit as listed in the Malibu LIP.

B. Application Submittal. An application shall be filed with the planning division and may be part of the planning verification application for replacement structures that were damaged or destroyed by a natural disaster. Applications shall be complete only after all required information is submitted; review by all appropriate city staff and specialists including review by the building official, city engineer, city

biologist, city geologist, city archeologist, city coastal engineer and city environmental health specialist, as deemed necessary, is complete; and the application fee determined by resolution of the city council is paid.

C. Action. The planning manager/director shall approve, deny, or approve with conditions a rebuild development permit within 15 calendar days from the date of a complete application. Complete application determinations shall be determined solely by the City. The City may include incomplete/or nonconforming plans as a basis for an incomplete application in addition to standard application requirements. No decision shall be subject to invalidation on the grounds that it is made after the deadline. The applicant shall be informed of the action by letter and/or approved plans. Action of the planning manager/director shall be final and not appealable.

D. Expiration. An approved rebuild development permit shall expire three years from the date of final approval, unless a time extension has been granted, or work has commenced and substantial progress made (as determined by the building official) and the work is continuing under a valid building permit. If no building permit is required, the rebuild development permit approval shall expire after three years from the date of final planning approval if construction is not completed. If a rebuild development permit is included within a planning verification application pursuant to Section 17.60.020(C), then the rebuild development permit shall expire when the planning verification expires.

E. Extension. The planning manager/director may grant up to four one-year extensions of the expiration of a rebuild development permit approval, if the planning manager/director finds, Based on substantial evidence, that due to unusual circumstances, strict compliance with the expiration date of the permit would create an undue hardship for the applicant.

SECTION 7. Effective Date.

The LCPA sections referenced in Section 5 of this Ordinance shall become effective upon certification by the California Coastal Commission. The ZTA sections referenced in Section 6 of this ordinance shall become effective 30 days following adoption by the City Council.

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.

_____
DOUG STEWART, Mayor

ATTEST:

_____
KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

_____
TREVOR RUSIN, Interim City Attorney

CHAPTER 2. DEFINITIONS.

2.1 GENERAL DEFINITIONS

PRIMARY DEVELOPMENT AREA FOOTPRINT - the main building pad or development area which supported the primary building in which the principal use of the lot was situated or conducted, as distinguished from a secondary building pad or development area that is not attached to the main building pad or development area, for purposes of properties that were damaged or destroyed by a natural disaster. For beachfront lots, decks that were attached to the primary building shall be included in the primary development area footprint if replaced with another deck.

3.6 RESIDENTIAL DEVELOPMENT STANDARDS. All single-family and multiple-family residences shall be subject to the following development standards:

M. Temporary Housing. Temporary housing structures as used herein means mobilehomes, trailers, recreational vehicles or other structures which are self-contained units which include sanitary facilities, and facilities for normal daily routines including cooking and sleeping. Temporary housing structures do not include any structure placed upon a permanent foundation, nor do they include tents, yurts, or similar fabric or textile installations. Temporary housing structures used as a residence during reconstruction or in anticipation of reconstruction of a residence destroyed due to natural disaster shall comply with the following conditions:

1. No more than two temporary housing structures which together total no more than one thousand ~~two hundred~~ (~~1,200~~1,000) square feet shall be permitted.

2. No additional grading shall be allowed beyond that permitted as part of the development plan. The temporary housing shall be placed within the existing development area as defined by the LIP. Development area for residences built before the Coastal Act shall include all of the site that was legally developed, including the building pad and all graded slopes, all structures, driveways and parking areas.

3. The temporary housing structure shall include skirting.

4. The temporary housing structure shall not include any structural attachments.

5. The temporary housing structure shall comply with the following utility requirements:

   a. Be connected to a city-approved power source.

   b. Provide the city with written authorization from the owner allowing the city to terminate all utilities upon expiration of the period for which the temporary housing structure is permitted to remain on the property.

   c. Be connected to a functioning onsite wastewater treatment system (OWTS) or sewer as approved by the environmental health administrator. A city-registered OWTS practitioner must inspect the OWTS and verify its functionality prior to installation of the temporary housing structure.

   d. Be connected to an approved source of potable water.

6. Temporary housing structures shall be permitted for an initial period of four years and shall be renewable by the Planning Director in increments up to one year, for a maximum placement of the temporary housing structure of six years, provided that a building permit for the reconstruction has been issued and regular inspections are occurring.

7. Prior to final approval (e.g., certificate of occupancy) by the building official for the reconstructed residence, the temporary housing structure shall be removed from the lot unless the temporary housing structure is permitted and is converted into a permanent structure that meets the requirements of the LCP. An RV may remain on the lot and would no longer be considered a temporary housing structure if it is disconnected from utilities and legally stored in compliance with the LCP.

13.4.6 Exemption for Structures Destroyed by Natural Disaster

A. The replacement of any structure, other than a public works facility, destroyed by a disaster provided that the replacement structure meets all the of the following criteria:

1. It is for the same use as the destroyed structure;

2. It does not exceed either the footprint and height ~~floor area, height, or bulk~~ floor area, height, or bulk of the destroyed structure by more than ten (10) percent, and

3. It is sited in substantially the same location on the affected property as the destroyed structure.

As used in this section, "structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

4. Mechanized equipment or temporary shoring on the beach necessary to construct the replacement structure is allowed under this exemption for beachfront properties only if there are no feasible alternatives ~~so long as~~ and construction activities do not enter the intertidal zone ~~and/~~or extend beyond the previously existing primary development area footprint, and appropriate Best Management Practices are used. ~~whichever is more seaward.~~

B. ~~An onsite wastewater treatment system (OWTS) that was damaged or destroyed by a disaster may be replaced and improved provided that the replacement OWTS does not exceed the capacity of the damaged or destroyed OWTS primary development area footprint by more than ten (10) percent. If the new OWTS exceeds the damaged or destroyed primary development area footprint by more than ten (10) percent, then a De Minimis Waiver or OWTS Coastal Development Permit shall be required as provided in Sections 13.4.11 and 13.29 respectively. For OWTS replacements on or adjacent to a sandy beach, or coastal bluff beachfront facing blufftop, the OWTS shall be sited the most landward feasible and may not extend seaward of the previously existing primary development area footprint. For purposes of this section, if the existing tank is less than one thousand five hundred (1500) gallons the proposed new tank shall be allowed to increase in capacity to one thousand five hundred (1500) gallons only to meet the minimum code requirement of the city under this exemption.~~ An onsite wastewater treatment system (OWTS) that was damaged or destroyed by a natural disaster may be replaced and improved provided that the replacement OWTS is located within the existing primary development area footprint and is the minimum standard size necessary to meet the building code for the existing or replacement structure it serves. If the new OWTS exceeds the minimum standard size or is located outside the primary development area footprint, then a De Minimis Waiver or OWTS Coastal Development Permit shall be required as applicable by Sections 13.4.11 and 13.29 respectively. For OWTS replacements on or adjacent to a sandy beach or coastal bluff, the OWTS shall be sited in the most landward location feasible and may not extend further seaward than the existing and/or previously existing seawall, whichever is more landward.

~~C. Any new structure or improvement (including, but not limited to, foundation systems, utilities, and driveways) that is necessary to construct, install, or use the replacement~~

~~structure described in subsection (A) in compliance with all applicable state and local laws and regulations. New shoreline protection devices are not included under this exemption.~~

13.4.11 General Requirements for De Minimis Waiver

A. General Requirements for De Minimis Waiver.

The requirement for a coastal development permit may be waived through a De Minimis Coastal Development Permit Waiver issued by the planning director for the items listed below where the improvements are not otherwise exempt pursuant to Section 13.4, provided all the requirements of subsections B and C are met. The planning director's decision on whether to issue a de minimis waiver is not locally appealable.

1. Improvements to an onsite wastewater treatment system (OWTS) serving a structure that replaces one that was damaged or destroyed as a result of a natural disaster, where the improvements involve installing a new system or upgrading an existing system to an advanced system on the same lot in a location outside of the primary development area footprint ~~by more than ten (10) percent~~.

2. Minor improvements to existing driveways or access roads that are required by the fire department after a natural disaster, such as minor changes to the width or grade of driveways or access roads. This includes accessory structures, such as retaining walls, necessary to accommodate the driveway or access road improvement, including new cuts on slopes steeper than 3:1 but less than 1:1, subject to geotechnical feasibility review. Retaining walls shall not exceed six (6) feet in height ~~for any one wall, nor twelve (12) feet for any combination of walls (including required freeboard), and which shall be separated by at least three feet~~. New retaining walls that replace an existing wall being removed as a result of the driveway widening are allowed to be replaced to the same height of previous wall and may increase in height by a maximum of three (3) additional feet but shall not have a total height in excess of nine (9) feet. Access improvements that do not meet the findings for a waiver may be processed as an administrative coastal development permit (ACDP) under Section 13.13.1(A) or as a regular coastal development permit.

3. ~~New seawalls, as determined necessary by the planning director or building official to protect coastal resources, that protect an OWTS that is exempt, pursuant to Section 13.4.6, from the requirement to obtain a CDP, or for which a de minimis waiver is obtained pursuant to Section 13.4.11(A)(1). Such seawalls shall be sited in the location that is the most landward feasible and in any case shall not extend further seaward than the OWTS that it protects. New seawalls shall not extend into any existing public access easements or public access deed restrictions, excluding any such easements or deed restrictions on the seaward side of the OWTS it protects, and shall not expand further into previously approved public view corridors or further into open space deed restrictions.~~ Replacement seawalls that exceed ten (10) percent in height. The replacement seawall shall be sited in the same footprint as the previous seawall and shall not expand further seaward nor shall it extend further into an existing public access easement, deed restriction or view corridor.

4. Height increases beyond ten (10) percent for structures that are located on, or adjacent to, the sandy beach that would otherwise be exempt from the requirement

to obtain a coastal development permit pursuant to Section 13.4.6(A) where the previous finished floor elevation must be raised more than ten (10) percent higher than the previous height to meet Federal Emergency Management Agency (FEMA) flood zone requirements as determined by the City's floodplain administrator. Such height increase shall not exceed the increase in height to the finished floor required to meet the minimum FEMA flood zone requirements even if creating a nonconforming condition as measured from the centerline of the nearest adjacent public or private road.~~, nor shall it exceed 24 feet for a flat roof or 28 feet for a pitched roof as measured from the centerline of the nearest adjacent public or private road.~~

5. Replacement structures that would otherwise be exempt from the requirement to obtain a coastal development permit pursuant to Section 13.4.6(A) but are proposed to be sited ~~in a location that is not~~ substantially outside ~~in~~ the same ~~general~~ location where the damaged or destroyed structure was located so long as the new location is substantially superior ~~in the judgment of the Planning Director~~ after considering the impact of the relocation on ESHA, visual resources, and safety; with safety being the primary consideration. This waiver may include retaining walls and grading necessary for the construction of the relocated structure, but cuts may not be made into slopes steeper than 1:1 and retaining walls shall not exceed six feet in height for any one wall, nor twelve (12) feet for any combination of walls (including required freeboard), and which shall be separated by at least three feet.

6. Water tanks and other water storage devices necessary to construct, install, or use a replacement structure that was damaged or destroyed by a natural disaster and as required by applicable federal, state and local laws and regulations. New shoreline protection devices are not included under this waiver.

B. Findings for and Reporting of De Minimis Waivers.

All decisions on de minimis waivers shall be accompanied by written findings:

1. That the ~~OWTS or driveway/road~~ structures or improvements have no potential for adverse effects, either individually or cumulatively, on coastal resources or public access to the shoreline or along the coast.

2. That the structures or ~~OWTS or driveway/road~~ improvements are consistent with the certified Malibu Local Coastal Program, including the resource protection policies, as applicable.

3. If an OWTS is to be relocated on the lot, that the director, in consultation with the environmental health administrator, has determined the relocation is necessary to better protect coastal resources and if on a beachfront lot, is no further seaward than the existing OWTS or no further seaward than the previously existing seawall, whichever is further landward ~~in the most landward location that is feasible~~.

4. If driveway/road improvements are proposed, that: (a) they are in the same general alignment as the existing road; (b) they are not located in environmentally sensitive habitat area (ESHA); (c) they do not remove or encroach within the protected zone of native trees; and (d) they do not adversely impact visual resources.

5. That the development is not in a location where an action on the development would be appealable to the coastal commission, unless the replacement structure qualifies under Section 13.4.11(A)(3) and (4), or serves a structure that qualifies as exempt from a coastal development permit pursuant to Section 13.4.6 ~~except for OWTS that meet the requirements under Section 13.4.6(B) or structures that meet the requirements under Section 13.4.11(A)~~. (See Chapter 2 – Definitions).

~~6. That the structures or improvements do not encroach upon any existing public access easements or public access deed restrictions, except for a new seawall located in any such easements or deed restrictions on the seaward side of the OWTS it protects, and does not expand further into previously approved public view corridors or further into open space deed restrictions.~~

6. For relocation pursuant to Section 13.4.11(A)(~~4~~5), that the new location is substantially superior after considering the impact of the relocation on ESHA, visual resources, and primarily safety.

C. Reporting De Minimis Waiver.

1. At the time the application is submitted for filing, the applicant must post, at a conspicuous place as close to the site as possible that is easily accessible by the public and approved by the city, notice, on a form approved by the city, that an application for a de minimis waiver has been submitted to the city. Such notice shall contain a general description of the nature of the proposed development.

2. The planning director shall issue a notice of determination on the application which shall be reported to the planning commission. The notice of determination shall be provided to all known interested parties, including the executive director of the coastal commission, at least ten (10) days prior to the waiver determination being reported to the planning commission.

3. If, after consideration of the waiver and any public objections to it, the planning commission requests that the waiver not be effective, then the applicant shall be advised that a Coastal development permit is required for the ~~OWTS or road~~ structures or improvements. Otherwise, the waiver is effective immediately after the planning commission meeting where the matter is heard.

D. Waiver Expiration.

A de minimis waiver shall expire and be of no further force and effect if the authorized ~~OWTS or driveway or access road~~ structures or improvements are not commenced pursuant to a valid grading and/or building permit, as applicable, within five years of the effective date of the waiver. If expired, a coastal development permit or another waiver shall be required.

CHAPTER 17.02
INTRODUCTORY PROVISIONS AND DEFINITIONS

§ 17.02.060. Definitions.

"Primary development area footprint" means the main building pad or development area which supported the primary building in which the principal use of the lot was situated or conducted, as distinguished from a secondary building pad or development area that is not attached to the main building pad or development area, for purposes of properties that were damaged or destroyed by a natural disaster. For beachfront lots, decks that were attached to the primary building shall be included in the primary development area footprint if replaced with another deck.

§ 17.40.040. Residential development standards.

A. All residential development shall be subject to the following development standards:

18. Temporary Housing. Temporary housing structures as used herein means mobilehomes, trailers, recreational vehicles or other structures which are self-contained units which include sanitary facilities, and facilities for normal daily routines including cooking and sleeping. Temporary housing structures do not include any structure placed upon a permanent foundation, nor do they include tents, yurts, or similar fabric or textile installations. Temporary housing structures used as a residence during reconstruction or in anticipation of reconstruction of a residence destroyed due to natural disaster shall be permitted with a temporary housing permit approved by the Planning Director and shall comply with the following conditions:

a. No more than two temporary housing structures which together total no more than ~~1,200~~ 1,000 square feet shall be permitted.

b. No additional grading shall be allowed beyond that permitted as part of the development plan. The temporary housing shall be placed within the existing development area as defined by the LIP. Development area for residences built before the Coastal Act shall include all of the site that was legally developed, including the building pad and all graded slopes, all structures, driveways and parking areas.

c. The temporary housing structure shall include skirting.

d. The temporary housing structure does not include any structural attachments.

e. The temporary housing structure shall comply with the following utility requirements:

i. Be connected to a city-approved power source.

ii. Provide the city with written authorization from the owner allowing the city to terminate all utilities upon expiration of the period for which the temporary housing structure is permitted to remain on the property.

iii. Be connected to a functioning onsite wastewater treatment system (OWTS) or sewer as approved by the environmental health administrator. A city-registered OWTS practitioner must inspect the OWTS and verify its functionality prior to installation of the temporary housing structure.

iv. Be connected to an approved source of potable water.

f. Temporary housing structures shall be permitted for an initial period of four years and shall be renewable by the planning director in increments up to one year, for a maximum placement of the temporary housing structure of six years, provided that a building permit for the reconstruction has been issued and regular inspections are occurring.

g. Upon expiration of the temporary housing permit, the property owner shall obtain

verification from the city that all temporary housing structures have been removed from the property. Failure to obtain this verification shall result in a fine of $5~~1~~00 per day until the verification is obtained.

h. Prior to final approval (e.g., certificate of occupancy) by the building official for the reconstructed residence, the temporary housing structure shall be removed from the lot unless the temporary housing structure is permitted and converted into a permanent structure that meets the requirements of the LCP. An RV may remain on the lot and would no longer be considered a temporary housing structure if it is disconnected from utilities and legally stored in compliance with the LCP.

i. The temporary housing structures shall only be occupied by the property owner(s) or tenant(s) living on the property at the date of the natural disaster. The temporary housing structure must be occupied by the property owner(s) or the tenant(s) at the date of the natural disaster or the property owner(s) will be subject to a fine of $500 per day until corrected. Liens may also be imposed on the property by the City as a means of compliance.

j. The siting of temporary housing shall be supported by a limited geotechnical report prepared by appropriately licensed professionals, which evaluates the location of the proposed temporary housing with respect to geologic and flood hazards that the specific location(s) may be exposed to during the proposed four-year use of the location. Specifically, the threat of post-fire debris flows and floods as described by the United States Geological Survey and identified by the Watershed Emergency Response Team Assessments. A finding is required that the specific location of the temporary housing is safe for its intended use for the duration of use. The report must be submitted to the City for review and accepted by the Building Official.

k. If the temporary housing is supported on anything other than wheels or a trailer which can be readily moved (i.e. a manufactured home), it shall comply with requirements for foundations as noted in Chapter 16, 18 and Appendix G – Flood proof Construction of the current California Building Code and requires a building permit from the City. Temporary housing supported on wheels shall be fastened to the ground.

CHAPTER 17.44
ACCESSORY DWELLING UNITS

§ 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 multifamily dwelling residential use. These zones include Rural Residential (RR), Single Family (SF), Multifamily (MF), Multifamily 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.

§ 17.44.090. 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~~ 1,000 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.

CHAPTER 17.45
CITYWIDE VIEW PRESERVATION AND RESTORATION

§ 17.45.150. Primary view determination prohibition in disaster areas.

A. Purpose. The purpose of this section is to protect victims of disasters from having primary view corridors established over their properties that would unfairly limit the size and/or location of future replacement structures or replacement landscaping damaged or destroyed by a disaster.

B. Prohibition. All properties within a disaster area are temporarily prohibited from obtaining a new or updated primary view determination unless: (1) the request was submitted prior to ~~February 1, 2019~~ the date the natural disaster began as declared or proclaimed by the City, State or Federal government, or as determined by the Planning Director if no declaration or proclamation has been made; or (2) the primary view determination would not impose any limitation on replacement landscaping or replacement structures.

C. Expiration of Prohibition. A temporary prohibition imposed by subsection B of this section shall expire: (1) for primary view determinations that would limit replacement structures, four years from the date of the disaster that created the disaster area at issue; and (2) for primary view determinations that would limit replacement landscaping, 10 years from the date of the disaster that created the disaster area at issue which can be extended up to five years if the planning director determines it is necessary for replacement landscaping to fully regrow.

CHAPTER 17.53
LANDSCAPE WATER CONSERVATION AND FIRE PROTECTION

§ 17.53.090. Landscape water conservation design and fire protection standards.

C. Fire Protection Standards.

1. Planting Restrictions.

a. Palm trees are prohibited.

b. ~~Trees and shrubs are~~ All vegetation is prohibited between zero and five feet from a structure. Turf grass is allowed between two and five feet.

c. The following species are prohibited within 50 feet of structures: Eucalyptus (Eucalyptus gum tree), Pine (Pinus species), Cypress (Cupressus species), Cedar (Cedrus species), Ficus (Ficus species), and Tree of Heaven (Ailanthus altissima).

d. Non-continuous planting of trees and shrubs (except those in (a) and (c) above, is allowed between five feet and 50 feet from a structure.

e. Existing eucalyptus trees are allowed between five feet and 50 feet of a structure if a qualified expert, as determined by the director, identifies the tree(s) as a monarch butterfly habitat. New eucalyptus trees are prohibited within 50 feet of a structure.

f. The distances for trees and shrubs subject to (b) through (e) shall be measured from the dripline of the tree or shrub at its projected maturity to the outermost projection of the structure including eaves and overhangs. No tree canopy shall be within five feet of the outermost projection of the structure including eaves and overhangs at projected maturity. Smaller diameter tree branches less than two inches must be removed within five feet of the outermost projection of the structure including eaves and overhangs and within 10 feet above the roof.

g. Trees planted within or near existing utility easements where overhead power lines are present are limited as follows:

i. Trees planted below or within 20 feet of a power line shall have a maximum growth height of 25 feet at maturity.

ii. Trees planted within 20 feet and 50 feet of a power line shall have a maximum growth height of 40 feet at maturity.

iii. The distances for trees and shrubs subject to this subsection (g) shall be measured from the center of the trunk.

h. Only efficiently-irrigated~~, low growing plants including but not limited to succulents, perennials, ground cover, and grasses~~ shall be allowed between five feet and 30 feet of a structure.

i. Irrigation shall be required and maintained on the site in all planting areas between five feet and 100 feet of a structure, except in geologic hazard areas in which irrigation may not be allowed. Any proposed irrigation shall be reviewed by the project geotechnical consultant and conform to existing surficial stability standards, not contribute to any geologic hazard, and not adversely affect offsite properties. The consultant shall include a statement regarding the impact of the proposed irrigation system in the required Section 111 statement. The city shall review analyses and findings provided by the project geotechnical consultant and determine whether irrigation is allowed or required in geologic hazard areas. All vegetation within 100 feet of a structure shall maintain sufficient moisture content and be supported by appropriately designed irrigation.

~~j. Only plants native to the Santa Monica Mountains shall be planted beyond 30 feet of a structure.~~

j. Plants listed in the City of Malibu 'Invasive Species List' are prohibited.

2. Mulch material proposed between zero and five feet from a structure must consist of nonflammable materials, such as gravel and decomposed granite. Flammable mulch material, including shredded bark, pine needles, and artificial turf, are prohibited between zero and five feet of a structure. Use of wood chips and shredded rubber is prohibited anywhere on the site. Non-continuous use of flammable mulch (excluding wood chips and shredded rubber) is allowed between five feet and 30 feet from a structure. Non-continuous mulched areas shall be separated with non-flammable materials such as gravel, rocks, decomposed granite, or stone. The distance shall be measured from the outermost projection of the structure including eaves and overhangs. The maximum application area of mulch located between five feet and 30 feet from a structure is 20 feet by 20 feet with a five-foot separation between application areas. Any mulch materials (excluding wood chips and shredded rubber), are allowed 30 feet or more from a structure with no limitation on application area. Organic mulch shall be maintained with at least a 3 inch depth but must not exceed 6 inches in depth.

3. Roadway Clearance. All flammable vegetation or other combustible growth shall be removed or cleared, and new vegetation shall not be planted, for a minimum of 10 feet on each side of every roadway or driveway (whether public or private) improved, designed or ordinarily used for vehicular travel, unless otherwise approved by the fire department. This section shall not apply to single specimens of trees, ornamental shrubbery or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground cover, provided they do not form a means of readily transmitting fire.

CHAPTER 17.60
NONCONFORMING STRUCTURES AND USES

§ 17.60.010. Purpose.

The purpose of this chapter is to govern the application of this title to structures, uses and parcels which were in conformance with zoning regulations when constructed, created or established, but which no longer comply as a consequence of the adoption of this title, or any subsequent amendments thereto.
(Prior code § 9400; Ord. 86 § 3, 1993; Ord. 93 § 63, 1993)

§ 17.60.020. Structures.

A. Any structure which was lawfully erected and which does not conform to the current design and development standards or lot development criteria of this title may be continuously maintained and shall be treated in all respects as though in full compliance with this title.

B. Additions to structures described in subsection A of this section, and repairs and renovations to such structures, may be made subject to the same regulations as apply to structures which are in full compliance with this title.

C. Any structure, including any structure that was damaged or destroyed by a natural disaster, 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. Structures that were damaged or destroyed by a natural disaster may be permitted, at the discretion of the planning director through approval of a planning verification, to increase the square footage, height or bulk permitted by this title by 10 percent of the existing or previously existing square footage, height or bulk of the structure. Increased height or bulk on non-beachfront properties shall not exceed 18 feet, unless a site plan review is obtained and increased square footage shall not exceed the limits of Section 17.40.040(A)(13). ~~and provided that t~~ The application for the reconstruction ~~is~~ must be initiated with the city within six years of the date of damage or destruction, and a building permit must be ~~is~~ diligently pursued and obtained within eight years from the date of damage or destruction and ~~has~~ not become expired. A request for an extension of time past ~~to~~ the six-year or eight-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 six- or eight-year limit creates an undue hardship. Extensions for applications may not total more than three years for a maximum total of nine years from the date of the disaster. Extensions for building permits may not total more than three years for a maximum total of eleven years from the date of the disaster. Any reconstruction shall extend the termination date described in Section 17.60.040 for the use operating within such a structure.

~~1. Replacement or improved onsite wastewater treatment systems (OWTS) serving structures that are damaged or destroyed by a natural disaster and are sited in the same location as the previously existing primary strure's development are footprint shall be subject to a planning verification. Beachfront properties shall locate the OWTS in the most landward feasible location, shall not impact existing public accessways, and shall not expand seaward of the existing primary structure's development area footprint.~~

D. Unreinforced masonry buildings constructed prior to 1933 which must be altered or demolished, because of state or local requirements to add seismic strengthening to existing

buildings, may be reconstructed regardless of any noncompliance with the standards of this title, provided such reconstruction is permitted by the building code.

E. Modifications of the original structure design may be permitted at the discretion of the planning director in the following areas:

1. Increases to the original structure square footage, provided the resulting total development square footage does not exceed the provisions of Section 17.40.040, except as allowed in subsection (E)(4) of this section;

2. Modification to the original structure setbacks, provided the proposed setbacks do not further reduce the original setback, unless otherwise recommended for geotechnical and safety purposes;

3. Increases in original building height, provided the proposed structure does not exceed eighteen (l8) feet;

4. Where no garage previously existed, the proposed plan may incorporate required parking pursuant to Section 17.48.030, up to a maximum of 600 square feet, and shall be exempt from Section 17.40.040(A)(13).

~~F. Any structure described in subsection A of this section that was damaged or destroyed by the 2018 Woolsey Fire may be permitted, at the discretion of the planning director through approval of a planning verification, to increase the square footage, height or bulk permitted by this title by 10% of the existing or previously existing square footage, height or bulk of the structure. Increased height shall not exceed 18 feet, unless a site plan review is obtained, and increased square footage shall not exceed the limits of Section 17.40.040(A)(13).~~

(Prior code § 9401; Ord. 86 § 3, 1993; Ord. 93 § 63, 1993; Ord. 104 §§ 4, 5, 1993; Ord. 111 § 6, 1994; Ord. 124 § 3, 1994; Ord. 445 § 6, 2018; Ord. 476 § 3, 2020)

CHAPTER 17.62
DEVELOPMENT PERMITS

Note: Prior code history: §§ 9420—9423 as amended by Ords. 86, 93, 111, 150 and 155.

§ 17.62.010. Purpose.

The purpose of development permits is to review proposed developments to determine compliance with the zoning standards, consistency with the general plan, and to protect the public health, safety and welfare. (Ord. 261 § 17, 2004)

§ 17.62.020. Applicability.

Except as provided in Section 17.62.060 of this chapter, a development permit shall be required for all development where a conditional use permit is not required or a development project is exempt from the requirements for a coastal development permit.
(Ord. 261 § 17, 2004; Ord. 277U § 2, 2005; Ord. 279U § 1, 2005; Ord. 284 § 4, 2005; Ord. 293 § 3(E), 2006; Ord. 315 § 3, 2007)

§ 17.62.030. Administrative plan review.

A. An administrative plan review shall be required for the following development projects, unless they fall under the provisions for a rebuild development permit as provided in Section 17.62.080. If the project meets the requirements of this title and is consistent with Chapter 17.40, the planning manager/ director shall issue a development permit.

1. Construction, reconstruction or addition to a building or structure 18 feet in height or less as measured from finished or natural grade, whichever results in a lower building height for a non- beachfront lot, and 28 feet in height or less for a beachfront lot;

2. Structures constructed on slopes greater than 3:1 but less than 2 1/2:1, not located in the Malibu Country Estates Overlay District;

3. Remedial grading not to exceed a cumulative 5,000 cubic yards per property;

4. One driveway, provided it is designed to be the least disruptive to the natural topography and provide the most direct route to the residence;

5. Detached accessory structures that have 200 square feet or less of floor area and do not exceed 14 feet in exterior height;

6. Fences and walls, including, but not limited to, retaining walls consistent with Section 17.40.030(A)(4) of this code;

7. Retaining walls over six feet, up to a maximum of 18 feet in height if the wall is used to create a building pad and it can be demonstrated that the wall will be blocked by the building from the view of the general public or adjacent property owners;

8. Trellises, patio covers, and decks;

9. Pools, spas, tennis courts/recreation courts, exterior stairs, or impervious surface(s);

10. Landscape/hardscape plans, fuel modification and grading plans;Projects, which are determined by the planning manager/director to be similar to and likely to have no greater impacts than those projects, enumerated above; and

11. All other projects which do not require any discretionary approvals.

B. Application Submittal. An application shall be filed with the planning division. Applications shall be complete only after all required information is submitted; review by all appropriate city staff and specialists including review by the building official, city engineer, city biologist, city geologist, city archeologist, city coastal engineer and city environmental health specialist, as deemed necessary, is complete; and the application fee determined by resolution of the city council is paid.

C. Action. The planning manager/director shall approve, deny, or approve with conditions an administrative plan review within 21 calendar days from the date of a complete application. These deadlines are directory and no decision shall be subject to invalidation solely on the ground that it is made after the deadline. For a project that is referred to the environmental review board (ERB), action by the planning manager/director on an administrative plan review shall occur within 60 calendar days from the date of a complete application. The applicant shall be informed of the action by letter and plans shall be stamped if the application is approved. Action of the planning manager/director shall be final.

D. Expiration. An approved administrative plan review shall expire three years from the date of approval, unless a time extension has been granted, or work has commenced and substantial progress made (as determined by the building official) and the work is continuing under a valid building permit. If no building permit is required, the administrative plan review approval shall expire after three years from the date of final planning approval if construction is not completed. The expiration date shall be suspended until an appeal and/or litigation regarding the subject permit is resolved.

E. Extension. The planning manager/director may grant up to four one-year extensions of the expiration of an administrative plan review approval, if the planning manager/director finds that the conditions, including, but not limited to, changes in the zoning ordinance, under which the administrative plan review approval was issued have not significantly changed.

(Ord. 261 § 17, 2004; Ord. 399 § 6C, 2009)

§ 17.62.040. Site plan review.

A. The planning manager/director may approve a site plan review after consultation with all appropriate city staff and specialists including the building official, city engineer, city biologist, city geologist, city archeologist and city coastal engineer ~~a coastal morphologist~~; and where substantial evidence supports the findings set forth in subsection D of this section for new construction or reconstruction of structures authorizing the following:

1. Construction, reconstruction or addition to a building on a non-beachfront lot resulting in height increases over the base 18 feet up to 28 feet in height for a pitched roof and 24 feet for a flat roof as measured from finished or natural grade, whichever results in a lower building height;

2. Remedial grading within the Malibu Country Estates Overlay District necessary to maintain existing building pads and slopes and to restore a building site as constructed

in the original grading plan for Tract 30134;

3. Grading not exceeding 100 cubic yards total cut and fill within the Malibu Country Estates Overlay District;

4. Satellite or communication devices and antennas within the Malibu Country Estates Overlay District which exceed one meter in diameter and that project above rooflines or are visible from public streets or sidewalks, where necessary to accommodate the technical requirements of the equipment;

5. Visually non-permeable sports court fences, not exceeding 12 feet in height;

6. Wireless telecommunications antennae and facilities (pursuant to the provisions of Chapter 17.46) that comply with the Most Restrictive Design Criteria set forth in Section 17.46.070;

7. Reduction of the 100 foot setback from an ESHA to no less than 50 feet;

8. Reduction of setback and open space requirements by no more than 20%, except that front yard setbacks may be reduced by no more than 50%;

9. Remedial grading over 5,000 cubic yards, but not exceeding a cumulative of 15,000 cubic yards per property;

10. Sea walls, bulkheads, or any other shoreline protective devices, except for those that meet the requirements for a De Minimis Waiver listed in LIP Section 13.4.11 or rebuild development permit listed in Section 17.62.080 as required;

11. Exemption from the hillside development ordinance provided that it can be demonstrated that the proposed development cannot be seen from public scenic areas;

12. For institutional development, height increases over the base district maximum of 18 feet up to a maximum of 35 feet in height for flagpoles, satellite dishes, safety railings, elevator shafts, stairwells, church spires, and belfries where consistent with all applicable Malibu Local Coastal Program policies and development standards. Roof-mounted mechanical equipment shall be integrated into the roof design, screened, and may project no more than two feet higher than the structure roof height (screens included);

13. Non-beachfront development over 18 feet in height on a replacement structure where the previously existing structure was damaged or destroyed by a natural disaster and the replacement structure is not sited in the same general location on the affected property as the damaged or destroyed structure, so long as the new location is substantially superior ~~in the judgment of the Planning Director~~ after considering the impact of the relocation on ESHA, visual resources, and safety; with safety being the primary consideration.

B. Application Submittal. An application shall be filed with the planning division. Applications shall be complete only after all required information is submitted; review by all appropriate city staff and specialists including review by the building official, city engineer, city biologist, city geologist, city archeologist, city coastal engineer and city environmental health specialist, as deemed necessary, is complete; and the application fee determined by resolution of the city council is paid.

C. Notice of Application Filing. Within 10 calendar days from the receipt date of a complete application, the planning manager/director shall notify in writing of the filing of the application to property owners and residents of all property within a 500 foot radius of the proposed project, but in no event fewer than the owners and occupants of 10 developed properties. Notwithstanding the foregoing, for property in the RR-10 and RR-20 zones the notice radius shall be 1,000 feet. The purpose of the notice is to inform the surrounding property owners and residents of the filing of the application and provide an opportunity for comment on the application prior to the planning manager/director's decision. The notice shall describe the request, provide a map showing the specific location of the property, describe the review process and timeframes, and indicate how to contact the case planner assigned to the application.

1. For development over 18 feet in height where the replacement structure is not proposed to be sited in the same location on the affected property as the damaged or destroyed structure, a notice of application shall be provided to all properties within a 1,000 foot radius of the development.

D. Findings and Action. The planning manager/director shall approve, deny, or approve with conditions a site plan review not sooner than 21 calendar days nor later than 30 days after the date of the notice of application filing. These deadlines are directory and no decision shall be subject to invalidation solely on the ground that it was made after the deadline. For a project that is referred to the ERB, action by the planning manager/director on a site plan review shall occur within 60 calendar days after the date of notice of application filing. The planning manager/director may approve or conditionally approve the application if the application meets all of the following criteria. Site plan reviews may be referred to the planning commission at the discretion of the planning manager/ director.

1. The project is compatible with other development in the adjacent area in relation to size, bulk, and height;

2. The project will not have a significant adverse impact on natural resources and makes suitable provisions for the preservation of natural hydrology, native plant materials, wooded areas, visually significant rock outcroppings, rough terrain, coastal bluffs and similar natural features;

3. Remedial grading (if applicable) exceeding 5,000 cubic yards is necessary to mitigate a geotechnical hazard as identified in a certified geotechnical report prepared by a California licensed geologist and reviewed and approved by the city geologist. The remedial grading will not result in a significant adverse impact on visual or biological resources;

4. The project does not obstruct visually impressive scenes of the Pacific Ocean, offshore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in Section 17.40.040(A)(17);

5. That the project does not affect solar access, as defined by staff;

6. The project is consistent with the city's general plan, local coastal program, municipal code, and city standards;

7. The proposed project complies with all applicable requirements of state and local law;

8. A sea wall, bulkhead or other shoreline protective device (if applicable) is necessary to protect an existing structure and/or an existing or new sewage disposal system as identified in a certified coastal engineering report prepared by a California licensed engineer and reviewed and approved by the city's coastal engineer.

E. Notice of Decision. The planning manager/director shall inform the applicant and interested parties of the action, by letter, and stamp the plans approved or denied. Action of the planning manager/ director shall be final, unless appealed to the planning commission in accordance with the procedures of Section 17.04.220.

F. Expiration. An approved site plan review shall expire three years from the date of the notice of decision letter, unless a time extension has been granted, or work has commenced and substantial progress made (as determined by the building official) and the work is continuing under a valid building permit. If no building permit is required, the site plan review approval shall expire three years from the date of the notice of decision letter if construction is not completed. The expiration date shall be suspended until an appeal and/or litigation regarding the subject permit is resolved. The planning manager/director may grant up to four one-year extensions of the expiration of a site plan review approval, if the planning manager/director finds that the conditions, including but not limited to changes in the zoning ordinance, under which the site plan review approval was issued have not significantly changed.

G. Compliance. No certificate of occupancy shall be issued, nor any authorization to connect utilities, until final inspection has determined that the construction complies with the approved plans.

(Ord. 261 § 17, 2004; Ord. 293 § 3(D), 2006; Ord. 373 § 6, 2013)

§ 17.62.050. Environmental review board review.

A. Projects shall be referred to the ERB for review when a project is in an Environmentally Sensitive Habitat Area (ESHA) or within 100 feet of an ESHA, and when the planning manager/director or city biologist determines a project may have the potential to significantly impact the following resources either individually or cumulatively: archaeological resources, sensitive species or habitats, parkland, geology, landform and watersheds and/or shoreline resources.

B. If required, the ERB review process shall consist of the following steps:

1. The ERB shall review the application and may require additional information as part of its review process.

2. Following its review, the ERB shall make a recommendation to the planning manager/director to approve the project, approve with conditions, or deny the application.

3. If the planning manager/director accepts the recommendation, the applicant shall have the opportunity to appeal this decision, pursuant to Sections 17.04.160 through 17.04.230 of this code.

4. If the planning manager/director does not accept the recommendation of the ERB, the application shall be automatically referred to the planning commission.

(Ord. 261 § 17, 2004)

§ 17.62.060. Site plan review and coastal development permits.

Except for beachfront lots or as provided in Chapter 17.42 of this code, all development projects which require a coastal development permit and which propose a structure greater than 18 feet in height shall obtain a site plan review. For purposes of this section, a site plan review may be approved or conditionally approved if the project meets all of the following criteria: (1) the project is consistent with the city's general plan and local coastal program; and (2) the portion of the project that is greater than 18 feet in height does not obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in Section 17.40.040(A)(17) of this code. A valid and unexpired city approval that is consistent with this section shall constitute compliance with this section.
(Ord. 277U § 4, 2005; Ord. 279U § 1, 2005; Ord. 284 § 6, 2005; Ord. 315 § 3, 2007)

§ 17.62.070. Hillside residential development and coastal development permits.

Any proposed hillside residential development, as defined and regulated by this title, which requires a coastal development permit shall comply with the additional regulations for hillside development set forth in Section 17.40.040(A)(20) of this title. For purposes of establishing compliance with this section, an administrative plan review may be approved or conditionally approved if the project is consistent with Section 17.40.040 (A)(20)(a) through (d) of this code. This section shall only apply to those development projects for which an application is complete on or after November 24, 2006.
(Ord. 293 § 3, 2006; Ord. 315 § 3, 2007)

§ 17.62.080. Rebuild development permit.

A. A rebuild development permit shall be required for the following development projects related to structures being replaced after being damaged or destroyed in a natural disaster. It shall be issued by planning manager/director upon demonstrating by a preponderance of the evidence that all requirements of the municipal code are met, as applicable.

1. Mechanized equipment or temporary shoring on the beach necessary to construct beachfront properties so long as construction activities do not enter the intertidal zone and~~/or~~ in no case shall extend beyond the previously existing primary development area footprint~~, whichever is more seaward~~.

2. An onsite wastewater treatment system (OWTS) that replaces or improves an OWTS serving a structure that that was damaged or destroyed by a natural disaster.

   a. OWTS replacements on a sandy beach or coastal bluff ~~beachfront facing blufftop~~ shall be sited the most landward feasible as determined by appropriate city staff, shall not impact existing public accessways, and shall not extend seaward of the previously existing primary development area footprint.

   b. OWTS replacements shall be located in least environmentally impactful area.

3. New seawalls, as determined necessary by the planning director or building official to protect coastal resources, that protect an OWTS serving a structure that was damaged or

destroyed by a natural disaster. New seawalls shall be sited only at the boundary of OWTS that it protects. ~~New seawalls shall be sited the most landward feasible and not extend further seaward than the limits of the OWTS that it protects.~~ New seawalls shall not extend into any existing public access easements or public access deed restrictions, excluding any such easements or deed restrictions on the seaward side of the OWTS it protects, and shall not expand further into previously approved public view corridors or further into open space deed restrictions.

4. Any new structure or improvement (including, but not limited to, foundation systems, utilities, and driveways) that is necessary to construct, install, or use the replacement structure described in subsection (A) in compliance with all applicable state and local laws and regulations.

5. Minor improvements to existing driveways or access roads that are required by the fire department after a natural disaster, such as minor changes to the width or grade of driveways or access roads. Accessory structures, such as retaining walls, necessary to accommodate the driveway or access road improvement shall also be allowed, including new cuts on slopes steeper than 3:1 but shall not exceed 1:1 or steeper. Retaining walls shall not exceed six feet in height for any one wall, nor twelve (12) feet for any combination of walls (including required freeboard), and which shall be separated by at least three feet. Improvements shall not extend into a public access easement or public access deed restriction and shall not expand further into a previously approved public view corridor (except for on-grade driveways), or further into open space deed restrictions. Access improvements that do not meet the requirements of this subsection may be processed as an administrative coastal development permit or as a regular coastal development permit as listed in the Malibu LIP.

B. Application Submittal. An application shall be filed with the planning division and may be part of the planning verification application for replacement structures that were damaged or destroyed by a natural disaster. Applications shall be complete only after all required information is submitted; review by all appropriate city staff and specialists including review by the building official, city engineer, city biologist, city geologist, city archeologist, city coastal engineer and city environmental health specialist, as deemed necessary, is complete; and the application fee determined by resolution of the city council is paid.

C. Action. The planning manager/director shall approve, deny, or approve with conditions a rebuild development permit within 15 calendar days from the date of a complete application. Complete application determinations shall be determined solely by the City. The City may include incomplete/or nonconforming plans as a basis for an incomplete application in addition to standard application requirements. No decision shall be subject to invalidation on the grounds that it is made after the deadline. The applicant shall be informed of the action by letter and/or approved plans. Action of the planning manager/director shall be final and not appealable.

D. Expiration. An approved rebuild development permit shall expire three years from the date of final approval, unless a time extension has been granted, or work has commenced and substantial progress made (as determined by the building official) and the work is continuing under a valid building permit. If no building permit is required, the rebuild development permit approval shall expire after three years from the date of final planning approval if construction is not completed. If a rebuild development permit is included within a planning

verification application pursuant to Section 17.60.020(C), then the rebuild development permit shall expire when the planning verification expires.

E. Extension. The planning manager/director may grant up to four one-year extensions of the expiration of a rebuild development permit approval, if the planning manager/director finds, Based on substantial evidence, that due to unusual circumstances, strict compliance with the expiration date of the permit would create an undue hardship for the applicant.

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 25-37

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU DETERMINING THE AMENDMENTS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND RECOMMENDING THAT THE CITY COUNCIL APPROVE LOCAL COASTAL PROGRAM AMENDMENT NO. 25-001 AND ZONING TEXT AMENDMENT NO. 25-001, FOR AN AMENDMENT TO THE LOCAL COASTAL PROGRAM AND TO THE MALIBU MUNICIPAL CODE TITLE 17 (ZONING) TO UPDATE REGULATIONS TO FACILITATE THE REBUILDING OF STRUCTURES DAMAGED OR DESTROYED BY NATURAL DISASTERS, INCLUDING BUT NOT LIMITED TO, THE 2025 PALISADES FIRE, 2024 FRANKLIN FIRE, AND 2024 BROAD FIRE TO PROVIDE RELIEF FOR THOSE AFFECTED

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

Section 1. Recitals.

A. On November 6, 2024, the Broad Fire destroyed structures on at least 4 properties in Malibu leaving residents with an urgent need to rebuild.

B. On December 9, 2024 the Franklin Fire destroyed structures on at least 38 properties in Malibu leaving residents with an urgent need to rebuild.

C. On January 7, 2025, the Palisades Fire destroyed structures on over 700 properties in Malibu leaving residents with an urgent need to rebuild. The Governor of California has declared the event a State of Emergency and the President of the United States has declared the event a Federal Emergency.

D. On January 27, 2025, the City Council adopted Resolution No. 25-06 to: 1) initiate a Local Coastal Program Amendment (LCPA) and Zoning Text Amendment (ZTA) to consider changes to the Malibu LCP and Title 17 (Zoning) of the Malibu Municipal Code (MMC) to facilitate the rebuilding of structures damaged or destroyed by the 2025 Palisades Fire, 2024 Franklin Fire, and 2024 Broad Fire and provide relief for victims of the fires; 2) bypass the Zoning Ordinance Revisions and Code Enforcement Subcommittee; and 3) directed the Planning Commission to schedule a public hearing regarding the same.

E. On January 30, 2025, 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.

F. On February 6, 2025, a Notice of Planning Commission Public Hearing was republished in a newspaper of general circulation within the City of Malibu as a courtesy.

G. On February 13, 2025, Governor Newsom issued Executive Order N-20-25, which suspended requirements of the California Environmental Quality Act and California Coastal Act for Palisades Fire rebuilds and related issues.

H. On February 13, 2025, 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.

I. On February 20, 2025 the Planning Commission held a duly noticed public hearing on the proposed rebuild amendments LCPA 25-001 and ZTA No. 25-001, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in 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 LCPA 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.

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 Commission determined that there is no possibility the amendment will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies. The amendments to the MMC that are not corollary to the LCP can be seen not to have a significant effect on the environment as they merely create permit and fine requirements and allow structures that existed previously to be rebuilt in the same location with substantially the same purpose and capacity as the structure that would be replaced, while also further protecting coastal resources and hazard protections.

Section 3. Local Coastal Program Findings.

Based on evidence in the whole record, the Planning Commission 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 rebuild projects that were destroyed in natural disasters and relief for those affected, ensure that

development standards are in place to facilitate owners getting their properties back to where they were before the natural disaster while also incorporating measures that will further enhance and protect coastal resources. Development standards were carefully crafted to meet the goals of the LCP.

B. As a part of the LIP, the updated development standards specific to rebuild projects that were destroyed in natural disasters and providing relief for those affected 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. The updated provisions incorporate specific requirements for rebuild structures to avoid coastal accessways, be sited the most landward feasible and the installation of structures that will protect coastal resources from contamination greater than previous conditions.

Section 4. Zoning Text Amendment Findings.

Pursuant to Malibu Municipal Code Section 17.74.040, the Planning Commission hereby makes the following findings and recommends to the City Council that the MMC be amended as stated in Exhibit A of this resolution.

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 Planning Commission 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. Planning Commission Action.

Based on the foregoing findings and evidence contained in the record, the Planning Commission hereby recommends that the City Council adopt an ordinance to approve the Local Coastal Program and Zoning Text Amendments contained in Exhibits A and B of this resolution and considers removal of the current ingress/egress requirements in Malibu Municipal Code Section 17.44.090 based on consultation with a fire expert; hold meetings with external agencies including California Department of Transportation and California Coastal Commission to discuss those agencies' viewpoints on construction of a seawall and protection of Pacific Coast Highway infrastructure; considers potential implications of pre-existing Primary View Determinations; move the De Minimis Waivers from Local Implementation Plan Section 13.4.11(A) to Section 13.4.6 – Exemption for Structures Destroyed by Natural Disaster; study Malibu Municipal Code Section 17.40.040(A)(18) issues related to temporary housing on beachfront properties in more detail; and considers future construction management planning during California Department of Transportation improvements to Pacific Coast Highway.

Section 6. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 20th day of February 2025.

KRAIG HILL, Planning Commission Chair

ATTEST:

REBECCA EVANS, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 25-37 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 20th day of February 2025, by the following vote:

AYES:	5	Commissioners: Peak, Leonard, Mazza, Riddick, Hill
NOES:	0	
ABSTAIN:	0	
ABSENT:	0	

REBECCA EVANS, Recording Secretary

CHAPTER 2. DEFINITIONS.

2.1 GENERAL DEFINITIONS

PRIMARY DEVELOPMENT AREA FOOTPRINT - the main building pad or development area which supported the primary building in which the principal use of the lot was situated or conducted, as distinguished from a secondary building pad or development area that is not attached to the main building pad or development area, for purposes of properties that were damaged or destroyed by a natural disaster. For beachfront lots, decks that were attached to the primary building shall be included in the primary development area footprint if replaced with another deck.

CHAPTER 3. ZONING DESIGNATIONS AND PERMITTED USES.

3.6 RESIDENTIAL DEVELOPMENT STANDARDS. All single-family and multiple-family residences shall be subject to the following development standards:

M. Temporary Housing. Temporary housing structures as used herein means mobilehomes, trailers, recreational vehicles or other structures which are self-contained units which include sanitary facilities, and facilities for normal daily routines including cooking and sleeping. Temporary housing structures do not include any structure placed upon a permanent foundation, nor do they include tents, yurts, or similar fabric or textile installations. Temporary housing structures used as a residence during reconstruction or in anticipation of reconstruction of a residence destroyed due to natural disaster shall comply with the following conditions:

1. No more than two temporary housing structures which together total no more than one thousand ~~two hundred~~ (~~1,200~~1,000) square feet shall be permitted.

2. No additional grading shall be allowed beyond that permitted as part of the development plan. The temporary housing shall be placed within the existing development area as defined by the LIP. Development area for residences built before the Coastal Act shall include all of the site that was legally developed, including the building pad and all graded slopes, all structures, driveways and parking areas.

3. The temporary housing structure shall include skirting.

4. The temporary housing structure shall not include any structural attachments.

5. The temporary housing structure shall comply with the following utility requirements:

   a. Be connected to a city-approved power source.

   b. Provide the city with written authorization from the owner allowing the city to terminate all utilities upon expiration of the period for which the temporary housing structure is permitted to remain on the property.

   c. Be connected to a functioning onsite wastewater treatment system (OWTS) or sewer as approved by the environmental health administrator. A city-registered OWTS practitioner must inspect the OWTS and verify its functionality prior to installation of the temporary housing structure.

   d. Be connected to an approved source of potable water.

6. Temporary housing structures shall be permitted for an initial period of four years and shall be renewable by the Planning Director in increments up to one year, for a maximum placement of the temporary housing structure of six years, provided that a building permit for the reconstruction has been issued and regular inspections are occurring.

7. Prior to final approval (e.g., certificate of occupancy) by the building official for the reconstructed residence, the temporary housing structure shall be removed from the lot unless the temporary housing structure is permitted and is converted into a permanent structure that meets the requirements of the LCP. An RV may remain on the lot and would no longer be considered a temporary housing structure if it is disconnected from utilities and legally stored in compliance with the LCP.

13.4.6 Exemption for Structures Destroyed by Natural Disaster

A. The replacement of any structure, other than a public works facility, destroyed by a disaster provided that the replacement structure meets all the of the following criteria:

1. It is for the same use as the destroyed structure;

2. It does not exceed ~~either~~ the ~~floor area,~~ footprint and height~~, or bulk~~ of the destroyed structure by more than ten (10) percent, and

3. It is sited in the same location on the affected property as the destroyed structure.

As used in this section, "structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster. Mechanized equipment or temporary shoring on the beach necessary to construct the replacement structure is allowed under this exemption for beachfront properties so long as construction activities do not enter the intertidal zone and/or extend beyond the previously existing primary development area footprint, whichever is more seaward.

B. An onsite wastewater treatment system (OWTS) that was damaged or destroyed by a disaster may be replaced and improved provided that the replacement OWTS does not exceed the ~~capacity of the~~ damaged or destroyed ~~OWTS~~ primary development area footprint by more than ten (10) percent. If the new OWTS exceeds the damaged or destroyed primary development area footprint by more than ten (10) percent, then a De Minimis Waiver or OWTS Coastal Development Permit shall be required as provided in Sections 13.4.11 and 13.29 respectively. For OWTS replacements on or adjacent to a sandy beach, or coastal bluff, the OWTS shall be sited the most landward feasible and may not extend seaward of the previously existing primary development area footprint. ~~For purposes of this section, if the existing tank is less than one thousand five hundred (1500) gallons the proposed new tank shall be allowed to increase in capacity to one thousand five hundred (1500) gallons only to meet the minimum code requirement of the city under this exemption.~~

C. Any new structure or improvement (including, but not limited to, foundation systems, utilities, and driveways) that is necessary to construct, install, or use the replacement structure described in subsection (A) in compliance with all applicable state and local laws and regulations. New shoreline protection devices are not included under this exemption.

13.4.11 General Requirements for De Minimis Waiver

A. General Requirements for De Minimis Waiver.

The requirement for a coastal development permit may be waived through a De Minimis Coastal Development Permit Waiver issued by the planning director for the items listed below where the improvements are not otherwise exempt pursuant to Section 13.4, provided all the requirements of subsections B and C are met. The planning director's decision on whether to issue a de minimis waiver is not locally appealable.

1. Improvements to an onsite wastewater treatment system (OWTS) serving a

structure that replaces one that was damaged or destroyed as a result of a natural disaster, where the improvements involve installing a new system or upgrading an existing system to an advanced system on the same lot in a location outside of the primary development area footprint by more than ten (10) percent.

2. Minor improvements to existing driveways or access roads that are required by the fire department after a natural disaster, such as minor changes to the width or grade of driveways or access roads. This includes accessory structures, such as retaining walls, necessary to accommodate the driveway or access road improvement, including new cuts on slopes steeper than 3:1 but less than 1:1, subject to geotechnical feasibility review. Retaining walls shall not exceed six feet in height for any one wall, nor twelve (12) feet for any combination of walls (including required freeboard), and which shall be separated by at least three feet. Access improvements that do not meet the findings for a waiver may be processed as an administrative coastal development permit (ACDP) under Section 13.13.1(A) or as a regular coastal development permit.

3. New seawalls, as determined necessary by the planning director or building official to protect coastal resources, that protect an OWTS that is exempt, pursuant to Section 13.4.6, from the requirement to obtain a CDP, or for which a de minimis waiver is obtained pursuant to Section 13.4.11(A)(1). Such seawalls shall be sited in the location that is the most landward feasible and in any case shall not extend further seaward than the OWTS that it protects. New seawalls shall not extend into any existing public access easements or public access deed restrictions, excluding any such easements or deed restrictions on the seaward side of the OWTS it protects, and shall not expand further into previously approved public view corridors or further into open space deed restrictions.

4. Height increases beyond ten (10) percent for structures that are located on, or adjacent to, the sandy beach that would otherwise be exempt from the requirement to obtain a coastal development permit pursuant to Section 13.4.6(A) where the previous finished floor elevation must be raised more than ten (10) percent higher than the previous height to meet Federal Emergency Management Agency (FEMA) flood zone requirements as determined by the City's floodplain administrator. Such height increase shall not exceed the increase in height to the finished floor required to meet the minimum FEMA flood zone requirements even if nonconforming.

5. Replacement structures that would otherwise be exempt from the requirement to obtain a coastal development permit pursuant to Section 13.4.6(A) but are proposed to be sited in a location that is not the same general location where the damaged or destroyed structure was located so long as the new location is substantially superior after considering the impact of the relocation on ESHA, visual resources, and safety; with safety being the primary consideration. This waiver may include retaining walls and grading necessary for the construction of the relocated structure, but cuts may not be made into slopes steeper than 1:1 and retaining walls shall not exceed six feet in height for any one wall, nor twelve (12) feet for any combination of walls (including required freeboard), and which shall be separated by at least three feet.

B. Findings for and Reporting of De Minimis Waivers.

All decisions on de minimis waivers shall be accompanied by written findings:

1. That the ~~OWTS or driveway/road~~ structures or improvements have no potential for adverse effects, either individually or cumulatively, on coastal resources.

2. That the structures or ~~OWTS or driveway/road~~ improvements are consistent with the certified Malibu Local Coastal Program, including the resource protection policies, as applicable.

3. If an OWTS is to be relocated on the lot, that the director, in consultation with the environmental health administrator, has determined the relocation is necessary to better protect coastal resources and if on a beachfront lot, is in the most landward location that is feasible.

4. If driveway/road improvements are proposed, that: (a) they are in the same general alignment as the existing road; (b) they are not located in environmentally sensitive habitat area (ESHA); (c) they do not remove or encroach within the protected zone of native trees; and (d) they do not adversely impact visual resources.

5. That the development is not in a location where an action on the development would be appealable to the coastal commission, except for OWTS that meet the requirements under Section 13.4.6(B) or structures that meet the requirements under Section 13.4.11(A) (See Chapter 2 – Definitions).

6. That the structures or improvements do not encroach upon any existing public access easements or public access deed restrictions, except for a new seawall located in any such easements or deed restrictions on the seaward side of the OWTS it protects, and does not expand further into previously approved public view corridors or further into open space deed restrictions.

7. For relocation pursuant to Section 13.4.11(A)(5), that the new location is substantially superior after considering the impact of the relocation on ESHA, visual resources, and primarily safety.

C. Reporting De Minimis Waiver.

1. At the time the application is submitted for filing, the applicant must post, at a conspicuous place as close to the site as possible that is easily accessible by the public and approved by the city, notice, on a form approved by the city, that an application for a de minimis waiver has been submitted to the city. Such notice shall contain a general description of the nature of the proposed development.

2. The planning director shall issue a notice of determination on the application which shall be reported to the planning commission. The notice of determination shall be provided to all known interested parties, including the executive director of the coastal commission, at least ten (10) days prior to the waiver determination being reported to the planning commission.

3. If, after consideration of the waiver and any public objections to it, the planning commission requests that the waiver not be effective, then the applicant shall be advised that a Coastal development permit is required for the ~~OWTS or road~~ structures or improvements. Otherwise, the waiver is effective immediately after the planning commission meeting where the matter is heard.

D. Waiver Expiration.

A de minimis waiver shall expire and be of no further force and effect if the authorized ~~OWTS or driveway or access road~~ structures or improvements are not commenced pursuant to a valid grading and/or building permit, as applicable, within five years of the effective date of the waiver. If expired, a coastal development permit or another waiver shall be required.

CHAPTER 17.02
INTRODUCTORY PROVISIONS AND DEFINITIONS

§ 17.02.060. Definitions.

"Primary development area footprint" means the main building pad or development area which supported the primary building in which the principal use of the lot was situated or conducted, as distinguished from a secondary building pad or development area that is not attached to the main building pad or development area, for purposes of properties that were damaged or destroyed by a natural disaster. For beachfront lots, decks that were attached to the primary building shall be included in the primary development area footprint if replaced with another deck.

§ 17.40.040. Residential development standards.

A. All residential development shall be subject to the following development standards:

18. Temporary Housing. Temporary housing structures as used herein means mobilehomes, trailers, recreational vehicles or other structures which are self-contained units which include sanitary facilities, and facilities for normal daily routines including cooking and sleeping. Temporary housing structures do not include any structure placed upon a permanent foundation, nor do they include tents, yurts, or similar fabric or textile installations. Temporary housing structures used as a residence during reconstruction or in anticipation of reconstruction of a residence destroyed due to natural disaster shall be permitted with a temporary housing permit approved by the Planning Director and shall comply with the following conditions:

a. No more than two temporary housing structures which together total no more than ~~1,200~~ 1,000 square feet shall be permitted.

b. No additional grading shall be allowed beyond that permitted as part of the development plan. The temporary housing shall be placed within the existing development area as defined by the LIP. Development area for residences built before the Coastal Act shall include all of the site that was legally developed, including the building pad and all graded slopes, all structures, driveways and parking areas.

c. The temporary housing structure shall include skirting.

d. The temporary housing structure does not include any structural attachments.

e. The temporary housing structure shall comply with the following utility requirements:

i. Be connected to a city-approved power source.

ii. Provide the city with written authorization from the owner allowing the city to terminate all utilities upon expiration of the period for which the temporary housing structure is permitted to remain on the property.

iii. Be connected to a functioning onsite wastewater treatment system (OWTS) or sewer as approved by the environmental health administrator. A city-registered OWTS practitioner must inspect the OWTS and verify its functionality prior to installation of the temporary housing structure.

iv. Be connected to an approved source of potable water.

f. Temporary housing structures shall be permitted for an initial period of four years and shall be renewable by the planning director in increments up to one year, for a maximum placement of the temporary housing structure of six years, provided that a building permit for the reconstruction has been issued and regular inspections are occurring.

g. Upon expiration of the temporary housing permit, the property owner shall obtain verification from the city that all temporary housing structures have been removed from the property. Failure to obtain this verification shall result in a fine of $5~~+~~00 per day until the verification is obtained.

h. Prior to final approval (e.g., certificate of occupancy) by the building official for the reconstructed residence, the temporary housing structure shall be removed from the lot unless the temporary housing structure is permitted and converted into a permanent structure that meets the requirements of the LCP. An RV may remain on the lot and would no longer be considered a temporary housing structure if it is disconnected from utilities and legally stored in compliance with the LCP.

i. The temporary housing structures shall only be occupied by the property owner(s) or tenant(s) living on the property at the date of the natural disaster. The temporary housing structure must be occupied by the property owner(s) or the tenant(s) at the date of the natural disaster or the property owner(s) will be subject to a fine of $500 per day until corrected. Liens may also be imposed on the property by the City as a means of compliance.

j. The siting of temporary housing shall be supported by a limited geotechnical report prepared by appropriately licensed professionals, which evaluates the location of the proposed temporary housing with respect to geologic and flood hazards that the specific location(s) may be exposed to during the proposed four-year use of the location. Specifically, the threat of post-fire debris flows and floods as described by the United States Geological Survey and identified by the Watershed Emergency Response Team Assessments. A finding is required that the specific location of the temporary housing is safe for its intended use for the duration of use. The report must be submitted to the City for review and accepted by the Building Official.

k. If the temporary housing is supported on anything other than wheels or a trailer which can be readily moved (i.e. a manufactured home), it shall comply with requirements for foundations as noted in Chapter 16, 18 and Appendix G – Flood proof Construction of the current California Building Code and requires a building permit from the City. Temporary housing supported on wheels shall be fastened to the ground.

CHAPTER 17.44
ACCESSORY DWELLING UNITS

§ 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~~ 1,000 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.

CHAPTER 17.45

CITYWIDE VIEW PRESERVATION AND RESTORATION

§ 17.45.150. Primary view determination prohibition in disaster areas.

A. Purpose. The purpose of this section is to protect victims of disasters from having primary view corridors established over their properties that would unfairly limit the size and/or location of future replacement structures or replacement landscaping damaged or destroyed by a disaster.

B. Prohibition. All properties within a disaster area are temporarily prohibited from obtaining a new or updated primary view determination unless: (1) the request was submitted prior to ~~February 1, 2019~~ the date the natural disaster began as declared or proclaimed by the City, State or Federal government, or as determined by the Planning Director if no declaration or proclamation has been made; or (2) the primary view determination would not impose any limitation on replacement landscaping or replacement structures.

C. Expiration of Prohibition. A temporary prohibition imposed by subsection B of this section shall expire: (1) for primary view determinations that would limit replacement structures, four years from the date of the disaster that created the disaster area at issue; and (2) for primary view determinations that would limit replacement landscaping, 10 years from the date of the disaster that created the disaster area at issue which can be extended up to five years if the planning director determines it is necessary for replacement landscaping to fully regrow.

CHAPTER 17.53
LANDSCAPE WATER CONSERVATION AND FIRE PROTECTION

§ 17.53.090. Landscape water conservation design and fire protection standards.

C. Fire Protection Standards.

1. Planting Restrictions.

a. Palm trees are prohibited.

b. ~~Trees and shrubs are~~ All vegetation is prohibited between zero and five feet from a structure.

c. The following species are prohibited within 50 feet of structures: Eucalyptus (Eucalyptus gum tree), Pine (Pinus species), Cypress (Cupressus species), Cedar (Cedrus species), Ficus (Ficus species) and Tree of Heaven (Ailanthus altissima).

d. Non-continuous planting of trees and shrubs (except those in (a) and (c) above, is allowed between five feet and 50 feet from a structure.

e. Eucalyptus trees are allowed between five feet and 50 feet of a structure if a qualified expert, as determined by the director, identifies the tree(s) as a monarch butterfly habitat.

f. The distances for trees and shrubs subject to (b) through (e) shall be measured from the dripline of the tree or shrub at its projected maturity to the outermost projection of the structure including eaves and overhangs.

g. Trees planted within or near existing utility easements where overhead power lines are present are limited as follows:

i. Trees planted below or within 20 feet of a power line shall have a maximum growth height of 25 feet at maturity.

ii. Trees planted within 20 feet and 50 feet of a power line shall have a maximum growth height of 40 feet at maturity.

iii. The distances for trees and shrubs subject to this subsection (g) shall be measured from the center of the trunk.

h. Only efficiently-irrigated, low growing plants including but not limited to succulents, perennials, ground cover, and grasses shall be allowed between five feet and 30 feet of a structure.

i. Irrigation shall be required and maintained on the site in all planting areas between five feet and 100 feet of a structure, except in geologic hazard areas in which irrigation may not be allowed. Any proposed irrigation shall be reviewed by the project geotechnical consultant and conform to existing surficial stability standards, not contribute to any geologic hazard, and not adversely affect offsite properties. The consultant shall include a statement

regarding the impact of the proposed irrigation system in the required Section 111 statement. The city shall review analyses and findings provided by the project geotechnical consultant and determine whether irrigation is allowed or required in geologic hazard areas.

j. Only plants native to the Santa Monica Mountains shall be planted beyond 30 feet of a structure.

k. Plants listed in the City of Malibu 'Invasive Species List' are prohibited.

2. Mulch material proposed between zero and five feet from a structure must consist of nonflammable materials, such as gravel and decomposed granite. Flammable mulch material, including shredded bark, pine needles, and artificial turf, are prohibited between zero and five feet of a structure. Use of wood chips and shredded rubber is prohibited anywhere on the site. Non-continuous use of flammable mulch (excluding wood chips and shredded rubber) is allowed between five feet and 30 feet from a structure. Non-continuous mulched areas shall be separated with non-flammable materials such as gravel, rocks, decomposed granite, or stone. The distance shall be measured from the outermost projection of the structure including eaves and overhangs. The maximum application area of mulch located between five feet and 30 feet from a structure is 20 feet by 20 feet with a five-foot separation between application areas. Any mulch materials (excluding wood chips and shredded rubber), are allowed 30 feet or more from a structure with no limitation on application area.

3. Roadway Clearance. All flammable vegetation or other combustible growth shall be removed or cleared, and new vegetation shall not be planted, for a minimum of 10 feet on each side of every roadway or driveway (whether public or private) improved, designed or ordinarily used for vehicular travel, unless otherwise approved by the fire department. This section shall not apply to single specimens of trees, ornamental shrubbery or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground cover, provided they do not form a means of readily transmitting fire.

CHAPTER 17.60
NONCONFORMING STRUCTURES AND USES

§ 17.60.010. Purpose.

The purpose of this chapter is to govern the application of this title to structures, uses and parcels which were in conformance with zoning regulations when constructed, created or established, but which no longer comply as a consequence of the adoption of this title, or any subsequent amendments thereto.
(Prior code § 9400; Ord. 86 § 3, 1993; Ord. 93 § 63, 1993)

§ 17.60.020. Structures.

A. Any structure which was lawfully erected and which does not conform to the current design and development standards or lot development criteria of this title may be continuously maintained and shall be treated in all respects as though in full compliance with this title.

B. Additions to structures described in subsection A of this section, and repairs and renovations to such structures, may be made subject to the same regulations as apply to structures which are in full compliance with this title.

C. Any structure, including any structure that was damaged or destroyed by a natural disaster, 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. Structures that were damaged or destroyed by a natural disaster may be permitted, at the discretion of the planning director through approval of a planning verification, to increase the square footage, height or bulk permitted by this title by 10 percent of the existing or previously existing square footage, height or bulk of the structure. Increased height or bulk shall not exceed 18 feet, unless a site plan review is obtained and increased square footage shall not exceed the limits of Section 17.40.040(A)(13). ~~and provided that t~~ The application for the reconstruction ~~is~~ must be initiated with the city within six years of the date of damage or destruction, and a building permit must be ~~is~~ diligently pursued and obtained within eight years from the date of damage or destruction and ~~has~~ not become expired. A request for an extension of time past ~~to~~ the six-year or eight-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 six- or eight-year limit creates an undue hardship. Extensions for applications may not total more than three years for a maximum total of nine years from the date of the disaster. Extensions for building permits may not total more than three years for a maximum total of eleven years from the date of the disaster. Any reconstruction shall extend the termination date described in Section 17.60.040 for the use operating within such a structure.

D. Unreinforced masonry buildings constructed prior to 1933 which must be altered or demolished, because of state or local requirements to add seismic strengthening to existing buildings, may be reconstructed regardless of any noncompliance with the standards of this title, provided such reconstruction is permitted by the building code.

E. Modifications of the original structure design may be permitted at the discretion of the planning director in the following areas:

1. Increases to the original structure square footage, provided the resulting total development square footage does not exceed the provisions of Section 17.40.040, except as allowed in subsection (E)(4) of this section;

2. Modification to the original structure setbacks, provided the proposed setbacks do not further reduce the original setback, unless otherwise recommended for geotechnical and safety purposes;

3. Increases in original building height, provided the proposed structure does not exceed eighteen (l8) feet;

4. Where no garage previously existed, the proposed plan may incorporate required parking pursuant to Section 17.48.030, up to a maximum of 600 square feet, and shall be exempt from Section 17.40.040(A)(13).

~~F. Any structure described in subsection A of this section that was damaged or destroyed by the 2018 Woolsey Fire may be permitted, at the discretion of the planning director through approval of a planning verification, to increase the square footage, height or bulk permitted by this title by 10% of the existing or previously existing square footage, height or bulk of the structure. Increased height shall not exceed 18 feet, unless a site plan review is obtained, and increased square footage shall not exceed the limits of Section 17.40.040(A)(13).~~

(Prior code § 9401; Ord. 86 § 3, 1993; Ord. 93 § 63, 1993; Ord. 104 §§ 4, 5, 1993; Ord. 111 § 6, 1994; Ord. 124 § 3, 1994; Ord. 445 § 6, 2018; Ord. 476 § 3, 2020)

CHAPTER 17.62
DEVELOPMENT PERMITS

Note: Prior code history: §§ 9420—9423 as amended by Ords. 86, 93, 111, 150 and 155.

§ 17.62.010. Purpose.

The purpose of development permits is to review proposed developments to determine compliance with the zoning standards, consistency with the general plan, and to protect the public health, safety and welfare. (Ord. 261 § 17, 2004)

§ 17.62.020. Applicability.

Except as provided in Section 17.62.060 of this chapter, a development permit shall be required for all development where a conditional use permit is not required or a development project is exempt from the requirements for a coastal development permit.
(Ord. 261 § 17, 2004; Ord. 277U § 2, 2005; Ord. 279U § 1, 2005; Ord. 284 § 4, 2005; Ord. 293 § 3(E), 2006; Ord. 315 § 3, 2007)

§ 17.62.030. Administrative plan review.

A. An administrative plan review shall be required for the following development projects, unless they fall under the provisions for a rebuild development permit as provided in Section 17.62.080. If the project meets the requirements of this title and is consistent with Chapter 17.40, the planning manager/ director shall issue a development permit.

1. Construction, reconstruction or addition to a building or structure 18 feet in height or less as measured from finished or natural grade, whichever results in a lower building height for a non- beachfront lot, and 28 feet in height or less for a beachfront lot;

2. Structures constructed on slopes greater than 3:1 but less than 2 1/2:1, not located in the Malibu Country Estates Overlay District;

3. Remedial grading not to exceed a cumulative 5,000 cubic yards per property;

4. One driveway, provided it is designed to be the least disruptive to the natural topography and provide the most direct route to the residence;

5. Detached accessory structures that have 200 square feet or less of floor area and do not exceed 14 feet in exterior height;

6. Fences and walls, including, but not limited to, retaining walls consistent with Section 17.40.030(A)(4) of this code;

7. Retaining walls over six feet, up to a maximum of 18 feet in height if the wall is used to create a building pad and it can be demonstrated that the wall will be blocked by the building from the view of the general public or adjacent property owners;

8. Trellises, patio covers, and decks;

9. Pools, spas, tennis courts/recreation courts, exterior stairs, or impervious surface(s);

10. Landscape/hardscape plans, fuel modification and grading plans;Projects, which are determined by the planning manager/director to be similar to and likely to have no greater impacts than those projects, enumerated above; and

11. All other projects which do not require any discretionary approvals.

B. Application Submittal. An application shall be filed with the planning division. Applications shall be complete only after all required information is submitted; review by all appropriate city staff and specialists including review by the building official, city engineer, city biologist, city geologist, city archeologist, city coastal engineer and city environmental health specialist, as deemed necessary, is complete; and the application fee determined by resolution of the city council is paid.

C. Action. The planning manager/director shall approve, deny, or approve with conditions an administrative plan review within 21 calendar days from the date of a complete application. These deadlines are directory and no decision shall be subject to invalidation solely on the ground that it is made after the deadline. For a project that is referred to the environmental review board (ERB), action by the planning manager/director on an administrative plan review shall occur within 60 calendar days from the date of a complete application. The applicant shall be informed of the action by letter and plans shall be stamped if the application is approved. Action of the planning manager/director shall be final.

D. Expiration. An approved administrative plan review shall expire three years from the date of approval, unless a time extension has been granted, or work has commenced and substantial progress made (as determined by the building official) and the work is continuing under a valid building permit. If no building permit is required, the administrative plan review approval shall expire after three years from the date of final planning approval if construction is not completed. The expiration date shall be suspended until an appeal and/or litigation regarding the subject permit is resolved.

E. Extension. The planning manager/director may grant up to four one-year extensions of the expiration of an administrative plan review approval, if the planning manager/director finds that the conditions, including, but not limited to, changes in the zoning ordinance, under which the administrative plan review approval was issued have not significantly changed.

(Ord. 261 § 17, 2004; Ord. 399 § 6C, 2009)

§ 17.62.040. Site plan review.

A. The planning manager/director may approve a site plan review after consultation with all appropriate city staff and specialists including the building official, city engineer, city biologist, city geologist, city archeologist and city coastal engineer ~~a coastal morphologist~~; and where substantial evidence supports the findings set forth in subsection D of this section for new construction or reconstruction of structures authorizing the following:

1. Construction, reconstruction or addition to a building on a non-beachfront lot resulting in height increases over the base 18 feet up to 28 feet in height for a pitched roof and 24 feet for a flat roof as measured from finished or natural grade, whichever results in a lower building height;

2. Remedial grading within the Malibu Country Estates Overlay District necessary to maintain existing building pads and slopes and to restore a building site as constructed in the original grading plan for Tract 30134;

3. Grading not exceeding 100 cubic yards total cut and fill within the Malibu Country Estates Overlay District;

4. Satellite or communication devices and antennas within the Malibu Country Estates Overlay District which exceed one meter in diameter and that project above rooflines or are visible from public streets or sidewalks, where necessary to accommodate the technical requirements of the equipment;

5. Visually non-permeable sports court fences, not exceeding 12 feet in height;

6. Wireless telecommunications antennae and facilities (pursuant to the provisions of Chapter 17.46) that comply with the Most Restrictive Design Criteria set forth in Section 17.46.070;

7. Reduction of the 100 foot setback from an ESHA to no less than 50 feet;

8. Reduction of setback and open space requirements by no more than 20%, except that front yard setbacks may be reduced by no more than 50%;

9. Remedial grading over 5,000 cubic yards, but not exceeding a cumulative of 15,000 cubic yards per property;

10. Sea walls, bulkheads, or any other shoreline protective devices, except for those that meet the requirements for a De Minimis Waiver listed in LIP Section 13.4.11 or rebuild development permit listed in Section 17.62.080 as required;

11. Exemption from the hillside development ordinance provided that it can be demonstrated that the proposed development cannot be seen from public scenic areas;

12. For institutional development, height increases over the base district maximum of 18 feet up to a maximum of 35 feet in height for flagpoles, satellite dishes, safety railings, elevator shafts, stairwells, church spires, and belfries where consistent with all applicable Malibu Local Coastal Program policies and development standards. Roof-mounted mechanical equipment shall be integrated into the roof design, screened, and may project no more than two feet higher than the structure roof height (screens included);

13. Development over 18 feet in height on a replacement structure where the previously existing structure was damaged or destroyed by a natural disaster and the replacement structure is not sited in the same general location on the affected property as the damaged or destroyed structure, so long as the new location is substantially superior in the judgment of the Planning Director after considering the impact of the relocation on ESHA, visual resources, and safety; with safety being the primary consideration.

B. Application Submittal. An application shall be filed with the planning division. Applications shall be complete only after all required information is submitted; review by all appropriate city staff and specialists including review by the building official, city engineer, city biologist, city geologist, city archeologist, city coastal engineer and city environmental health specialist,

as deemed necessary, is complete; and the application fee determined by resolution of the city council is paid.

C. Notice of Application Filing. Within 10 calendar days from the receipt date of a complete application, the planning manager/director shall notify in writing of the filing of the application to property owners and residents of all property within a 500 foot radius of the proposed project, but in no event fewer than the owners and occupants of 10 developed properties. Notwithstanding the foregoing, for property in the RR-10 and RR-20 zones the notice radius shall be 1,000 feet. The purpose of the notice is to inform the surrounding property owners and residents of the filing of the application and provide an opportunity for comment on the application prior to the planning manager/director's decision. The notice shall describe the request, provide a map showing the specific location of the property, describe the review process and timeframes, and indicate how to contact the case planner assigned to the application.

1. For development over 18 feet in height where the replacement structure is not proposed to be sited in the same location on the affected property as the damaged or destroyed structure, a notice of application shall be provided to all properties within a 1,000 foot radius of the development.

D. Findings and Action. The planning manager/director shall approve, deny, or approve with conditions a site plan review not sooner than 21 calendar days nor later than 30 days after the date of the notice of application filing. These deadlines are directory and no decision shall be subject to invalidation solely on the ground that it was made after the deadline. For a project that is referred to the ERB, action by the planning manager/director on a site plan review shall occur within 60 calendar days after the date of notice of application filing. The planning manager/director may approve or conditionally approve the application if the application meets all of the following criteria. Site plan reviews may be referred to the planning commission at the discretion of the planning manager/ director.

1. The project is compatible with other development in the adjacent area in relation to size, bulk, and height;

2. The project will not have a significant adverse impact on natural resources and makes suitable provisions for the preservation of natural hydrology, native plant materials, wooded areas, visually significant rock outcroppings, rough terrain, coastal bluffs and similar natural features;

3. Remedial grading (if applicable) exceeding 5,000 cubic yards is necessary to mitigate a geotechnical hazard as identified in a certified geotechnical report prepared by a California licensed geologist and reviewed and approved by the city geologist. The remedial grading will not result in a significant adverse impact on visual or biological resources;

4. The project does not obstruct visually impressive scenes of the Pacific Ocean, offshore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in Section 17.40.040(A)(17);

5. That the project does not affect solar access, as defined by staff;

6. The project is consistent with the city's general plan, local coastal program, municipal code, and city standards;

7. The proposed project complies with all applicable requirements of state and local law;

8. A sea wall, bulkhead or other shoreline protective device (if applicable) is necessary to protect an existing structure and/or an existing or new sewage disposal system as identified in a certified coastal engineering report prepared by a California licensed engineer and reviewed and approved by the city's coastal engineer.

E. Notice of Decision. The planning manager/director shall inform the applicant and interested parties of the action, by letter, and stamp the plans approved or denied. Action of the planning manager/ director shall be final, unless appealed to the planning commission in accordance with the procedures of Section 17.04.220.

F. Expiration. An approved site plan review shall expire three years from the date of the notice of decision letter, unless a time extension has been granted, or work has commenced and substantial progress made (as determined by the building official) and the work is continuing under a valid building permit. If no building permit is required, the site plan review approval shall expire three years from the date of the notice of decision letter if construction is not completed. The expiration date shall be suspended until an appeal and/or litigation regarding the subject permit is resolved. The planning manager/director may grant up to four one-year extensions of the expiration of a site plan review approval, if the planning manager/director finds that the conditions, including but not limited to changes in the zoning ordinance, under which the site plan review approval was issued have not significantly changed.

G. Compliance. No certificate of occupancy shall be issued, nor any authorization to connect utilities, until final inspection has determined that the construction complies with the approved plans.

(Ord. 261 § 17, 2004; Ord. 293 § 3(D), 2006; Ord. 373 § 6, 2013)

§ 17.62.050. Environmental review board review.

A. Projects shall be referred to the ERB for review when a project is in an Environmentally Sensitive Habitat Area (ESHA) or within 100 feet of an ESHA, and when the planning manager/director or city biologist determines a project may have the potential to significantly impact the following resources either individually or cumulatively: archaeological resources, sensitive species or habitats, parkland, geology, landform and watersheds and/or shoreline resources.

B. If required, the ERB review process shall consist of the following steps:

1. The ERB shall review the application and may require additional information as part of its review process.

2. Following its review, the ERB shall make a recommendation to the planning manager/director to approve the project, approve with conditions, or deny the application.

3. If the planning manager/director accepts the recommendation, the applicant shall have the opportunity to appeal this decision, pursuant to Sections 17.04.160 through 17.04.230 of this code.

4. If the planning manager/director does not accept the recommendation of the ERB, the application shall be automatically referred to the planning commission.

(Ord. 261 § 17, 2004)

§ 17.62.060. Site plan review and coastal development permits.

Except for beachfront lots or as provided in Chapter 17.42 of this code, all development projects which require a coastal development permit and which propose a structure greater than 18 feet in height shall obtain a site plan review. For purposes of this section, a site plan review may be approved or conditionally approved if the project meets all of the following criteria: (1) the project is consistent with the city's general plan and local coastal program; and (2) the portion of the project that is greater than 18 feet in height does not obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in Section 17.40.040(A)(17) of this code. A valid and unexpired city approval that is consistent with this section shall constitute compliance with this section.

(Ord. 277U § 4, 2005; Ord. 279U § 1, 2005; Ord. 284 § 6, 2005; Ord. 315 § 3, 2007)

§ 17.62.070. Hillside residential development and coastal development permits.

Any proposed hillside residential development, as defined and regulated by this title, which requires a coastal development permit shall comply with the additional regulations for hillside development set forth in Section 17.40.040(A)(20) of this title. For purposes of establishing compliance with this section, an administrative plan review may be approved or conditionally approved if the project is consistent with Section 17.40.040 (A)(20)(a) through (d) of this code. This section shall only apply to those development projects for which an application is complete on or after November 24, 2006.

(Ord. 293 § 3, 2006; Ord. 315 § 3, 2007)

§ 17.62.080. Rebuild development permit.

A. A rebuild development permit shall be required for the following development projects related to structures being replaced after being damaged or destroyed in a natural disaster. It shall be issued by planning manager/director upon demonstrating by a preponderance of the evidence that all requirements of the municipal code are met, as applicable.

1. Mechanized equipment or temporary shoring on the beach necessary to construct beachfront properties so long as construction activities do not enter the intertidal zone and/or extend beyond the previously existing primary development area footprint, whichever is more seaward.

2. An onsite wastewater treatment system (OWTS) that replaces or improves an OWTS serving a structure that that was damaged or destroyed by a natural disaster.

   a. OWTS replacements on a sandy beach or coastal bluff shall be sited the most landward feasible as determined by appropriate city staff, shall not impact existing public accessways, and shall not extend seaward of the previously existing primary development area footprint.

b. OWTS replacements shall be located in least environmentally impactful area.

3. New seawalls, as determined necessary by the planning director or building official to protect coastal resources, that protect an OWTS serving a structure that was damaged or destroyed by a natural disaster. New seawalls shall be sited the most landward feasible and not extend further seaward than the limits of the OWTS that it protects. New seawalls shall not extend into any existing public access easements or public access deed restrictions, excluding any such easements or deed restrictions on the seaward side of the OWTS it protects, and shall not expand further into previously approved public view corridors or further into open space deed restrictions.

4. Any new structure or improvement (including, but not limited to, foundation systems, utilities, and driveways) that is necessary to construct, install, or use the replacement structure described in subsection (A) in compliance with all applicable state and local laws and regulations.

5. Minor improvements to existing driveways or access roads that are required by the fire department after a natural disaster, such as minor changes to the width or grade of driveways or access roads. Accessory structures, such as retaining walls, necessary to accommodate the driveway or access road improvement shall also be allowed, including new cuts on slopes steeper than 3:1 but shall not exceed 1:1 or steeper. Retaining walls shall not exceed six feet in height for any one wall, nor twelve (12) feet for any combination of walls (including required freeboard), and which shall be separated by at least three feet. Improvements shall not extend into a public access easement or public access deed restriction and shall not expand further into a previously approved public view corridor (except for on-grade driveways), or further into open space deed restrictions. Access improvements that do not meet the requirements of this subsection may be processed as an administrative coastal development permit or as a regular coastal development permit as listed in the Malibu LIP.

B. Application Submittal. An application shall be filed with the planning division and may be part of the planning verification application for replacement structures that were damaged or destroyed by a natural disaster. Applications shall be complete only after all required information is submitted; review by all appropriate city staff and specialists including review by the building official, city engineer, city biologist, city geologist, city archeologist, city coastal engineer and city environmental health specialist, as deemed necessary, is complete; and the application fee determined by resolution of the city council is paid.

C. Action. The planning manager/director shall approve, deny, or approve with conditions a rebuild development permit within 15 calendar days from the date of a complete application. Complete application determinations shall be determined solely by the City. The City may include incomplete/or nonconforming plans as a basis for an incomplete application in addition to standard application requirements. No decision shall be subject to invalidation on the grounds that it is made after the deadline. The applicant shall be informed of the action by letter and/or approved plans. Action of the planning manager/director shall be final and not appealable.

D. Expiration. An approved rebuild development permit shall expire three years from the date of final approval, unless a time extension has been granted, or work has commenced and substantial progress made (as determined by the building official) and the work is continuing under a valid building permit. If no building permit is required, the rebuild development permit approval shall expire after three years from the date of final planning approval if construction is not completed. If a rebuild development permit is included within a planning verification application pursuant to Section 17.60.020(C), then the rebuild development permit shall expire when the planning verification expires.

E. Extension. The planning manager/director may grant up to four one-year extensions of the expiration of a rebuild development permit approval, if the planning manager/director finds, Based on substantial evidence, that due to unusual circumstances, strict compliance with the expiration date of the permit would create an undue hardship for the applicant.

NOTICE OF PUBLIC HEARINGS
CITY OF MALIBU
CITY COUNCIL

NOTICE OF AVAILABILITY
OF LOCAL COASTAL PROGRAM
AMENDMENT MATERIALS

The Malibu City Council will hold public hearings on **Tuesday, March 4, 2025, at 3:00 pm,** and on **Monday, March 10, 2025, at 5:30 pm** on the project identified below in the Council Chambers at Malibu City Hall, located at 23825 Stuart Ranch Road, Malibu, CA and via teleconference.

To view and participate during the public hearings, please review the meeting agenda posted at MalibuCity.org/AgendaCenter and follow the directions for public participation.

MALIBU REBUILDS CODE AMENDMENTS

Local Coastal Program Amendment No. 25-001 and Zoning Text Amendment No. 25-001 – An ordinance of the City of Malibu to amend the Malibu Local Coastal Program and Malibu Municipal Code Title 17 (Zoning) to facilitate the rebuilding of structures damaged or destroyed by natural disasters, including but not limited to, the 2025 Palisades Fire, 2024 Franklin Fire and 2024 Broad Fire to provide relief for those affected

Applicant:	City of Malibu
Location:	Citywide
Case Planner:	Tyler Eaton, Principal Planner (310) 456-2489, extension 273 teaton@malibucity.org

Environmental Review
In accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of a Local Coastal Program (LCP) amendment. This application is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect. LCP Local Implementation Plan 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 an 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 LCP amendment and because they are entirely dependent on, related to, and duplicative of, the exempt activity, they are subject to the same CEQA exemption. The proposed code amendments are not a project within the meaning of CEQA Guidelines Section 15378, because they have no potential to result in physical change to the environment, directly or indirectly. The amendments do not authorize any specific development or installation on any specific piece of property within the City's boundaries.

Legislative Process
In order to expedite these code amendments, this Notice of Public Hearings is being published in advance of the Planning Commission February 20, 2025 Special Meeting. A hearing before the City Council requires at least a 21-day public review period. As such, it is anticipated that the City Council will hold a public hearing and a first reading of the ordinance on March 4, followed by a second public hearing and second reading of the ordinance on March 10. By March 10, the City will have met the legal requirements for noticing. These dates are subject to change.

Upon publishing the February 20, 2025 Planning Commission Special Meeting agenda packet, approximately the week of February 10, copies of all documents relating to the proposed Local Coastal Program Amendment will be available for review at City Hall, Malibu Public Library, and the California Coastal Commission District office during regular business hours.

Following the City Council adoption of an ordinance, the LCP amendment will be submitted to the California Coastal Commission for its certification review process. The LCP amendment must be certified by the California Coastal Commission before it takes effect and the amendments to the Zoning Ordinance may be contingent upon this certification.

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

Public comment can be submitted ahead of the public hearings to citycouncil@malibucity.org for inclusion in the public record.

For More Information
To learn more about the City's rebuild efforts and for resources available to those affected, visit MalibuRebuilds.org. To receive updates on rebuild efforts, sign up for notifications at MalibuCity.org/RebuildUpdates.

IF YOU CHALLENGE THE CITY COUNCIL'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES RAISED AT THE PUBLIC HEARINGS DESCRIBED IN THIS NOTICE, OR OTHERWISE HELD BY THE CITY, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY, EITHER AT OR PRIOR TO THE PUBLIC HEARINGS.

Maureen Tamuri, Interim Planning Director

Publish Date: February 13, 2025

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-20-25

WHEREAS on January 7, 2025, I proclaimed a State of Emergency to exist in Los Angeles and Ventura Counties due to fire and windstorm conditions that caused multiple fires, including the Palisades, Eaton, Hurst, Lidia, Sunset, Woodley, and Hughes Fires; and

WHEREAS these fires devastated communities across the Greater Los Angeles Area and collectively burned over 47,900 acres, destroying or damaging more than 16,250 structures, including homes, small businesses, and places of worship, with initial estimates placing this disaster among the most destructive in California history; and

WHEREAS since the fires began, I have issued several Executive Orders to provide relief to impacted communities, protect survivors and to expedite and aid recovery efforts, including orders streamlining permitting requirements to enable Los Angeles to build back quickly, and safer and more resilient than before; and

WHEREAS on January 12, 2025, I issued Executive Order N-4-25, which suspended the California Environmental Quality Act (CEQA) and permitting requirements under the California Coastal Act for projects to rebuild properties destroyed or substantially damaged by these fires, subject to certain conditions, in order to avoid procedural delay and costs for such rebuilding efforts; and

WHEREAS on January 16, 2025, I issued Executive Order N-9-25, which extended those suspensions to new accessory dwelling units on impacted properties and accelerated the occupancy of those units, and also suspended regulatory requirements to expedite the establishment of mobilehomes, manufactured homes, and recreational vehicles as temporary housing while rebuilding efforts on impacted properties proceed; and

WHEREAS Executive Order N-4-25 also directed various state agencies and departments to report back to me within 30 days on recommendations for further suspensions of state laws that may delay rebuilding efforts, and to engage affected local governments around recommended practices for expedited permitting and other approvals to support rapid rebuilding, to streamline and align review and approvals for rebuilding efforts as much as possible; and

WHEREAS state agencies and departments have completed their review under this directive and identified additional suspensions of state law related to construction and environmental permits that will facilitate rapid rebuilding efforts, and these suspensions, together with the suspensions in my prior orders, will facilitate implementation of the one-stop, streamlined permitting processes that local governments are launching for impacted property owners; and

WHEREAS additional clarity that local governmental approvals in the permitting process are determinative of eligibility for the Coastal Act and CEQA suspensions under my prior orders, along with further guidance to local governments around those approvals, will provide additional certainty to property owners that will further accelerate rebuilding efforts; and

WHEREAS the suspensions of the Coastal Act and CEQA in my prior orders, and as further clarified in this Order, provide the full scope of flexibility requested by the affected local governments to support rapid rebuilding efforts; and

WHEREAS although the regulatory suspensions regarding mobilehomes, manufactured homes, recreational vehicles, and mobilehome and special occupancy parks in Executive Order N-9-25 will significantly reduce barriers, the requirement to obtain a coastal development permit may interfere with expedited rehousing objectives; and

WHEREAS state law limitations on the duration of coastal development and building permits may impede local agency efforts to create a one-stop, streamlined permitting processes developed by agencies, and add time and expense to the rebuilding process; and

WHEREAS rebuilding can be further expedited by allowing homes that were recently approved for development under modern building safety standards, including fire protection standards, to rebuild to the approved specifications; and

WHEREAS state laws that impose affordability requirements when rebuilding on the site of a demolished structure, or constructing a new residence in the coastal zone, serve important goals to increase the supply of affordable housing, but may, in some circumstances, delay rebuilding if applied to homes that were substantially damaged or destroyed due to the emergency; and

WHEREAS property owners seeking to expedite rebuilding by using previously approved building plans may be unreasonably delayed in accessing those plans by regulation requiring local building departments to seek the consent of the professional who signed the original plans, particularly when those plans were submitted years before this emergency; and

WHEREAS state law requires local jurisdictions to periodically update their zoning ordinances to implement their housing element, including minimum density and development standards, but an extension of these deadlines will allow local staff in a jurisdiction affected by the emergency to focus fully on developing and implementing rebuilding efforts; and

WHEREAS under the provisions of Government Code sections 8571, I find that strict compliance with various statutes and regulations specified in this Order would prevent, hinder, or delay the mitigation of the effects of these fires and windstorm conditions.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately.

IT IS HEREBY ORDERED THAT:

1. Paragraph 2 of Executive Order N-9-25 is terminated.

2. Paragraph 2 of Executive Order N-4-25 is terminated and replaced with the following:

   Paragraph 1 of Executive Order N-4-25, which suspends the California Environmental Quality Act (Division 13 of the Public Resources Code,

commencing with section 21000), and regulations adopted pursuant to that division, and any requirement to obtain a permit under the California Coastal Act (Division 20 of the Public Resources Code, commencing with section 30000), for projects to repair, restore, demolish, or replace property or facilities substantially damaged or destroyed as a result of this emergency, shall apply only to:

a. Primary structures and facilities that are in substantially the same location as, and do not exceed 110% of the footprint and height of, the primary structures and facilities that existed immediately before this emergency.

b. Accessory structures that do not exceed 110% of the footprint and height of the accessory structures that existed immediately before this emergency, and that are in substantially the same location relative to the primary structure as the accessory structures that existed immediately before the emergency. For properties subject to Coastal Commission Categorical Exclusion Order E-79-8, accessory structures covered by this subparagraph include accessory structures that are in substantially the same location relative to a primary residence as the accessory structures that existed immediately before the emergency, regardless of the size or location of the primary residence.

c. New accessory dwelling units on a residential property on which a primary residence was substantially damaged or destroyed as a result of this emergency, but only to the extent that such accessory dwelling units are built at least 10 feet from a canyon bluff or 25 feet from a coastal bluff.

d. Supportive infrastructure, including, but not limited to, foundation systems, utilities, and driveways, that is necessary to construct, install, or use the structures and facilities described in subparagraphs (a)-(c).

3. Structures and facilities described in subparagraphs (a)-(d) of Paragraph 2 are subject to the suspensions in Paragraph 1 of Executive Order N-4-25 only to the extent that they do not encroach on a public access easement or public access deed restriction, excluding any such easements or deed restrictions on the seaward side of structures or facilities on the beach, and only to the extent they do not expand farther into a previously approved public view corridor, farther into an open space deed restriction, or farther seaward on the beach than the structure or facility that existed immediately before this emergency.

4. Local agencies that issue development and building permits for development projects shall be the sole agencies that may determine whether a property or facility is eligible for the suspensions in Paragraph 1 of Executive Order N-4-25 and meets the requirements of Paragraphs 2 and 3 of this Order, and local agency planning or permit approval shall be determinative of eligibility. Such determination shall not be appealable to the California Coastal Commission or to any other state executive agency or department, and contrary provisions of the California Coastal Act (Division 20 of the Public Resources Code, commencing with section 30000) are suspended. Local agencies may develop guidance and procedures for implementing this Paragraph. In making the determinations described by this Paragraph, local agencies may consider, but are not limited to using, prior building permits, certificates of

occupancy, county accessor data, Coastal Commission records, photographic sources, such as Google Maps and Light Detection and Ranging (LiDAR), and any other reasonably available sources of information accessible to the local agency.

5. The provisions of the California Coastal Act requiring coastal development permits are suspended in Los Angeles County with regard to establishment, repair, or operation of a mobilehome park or special occupancy park, as well as replacement, installation, or repair of one or more mobilehomes, manufactured homes, or recreational vehicles located on privately-owned property when the lots are held out for rent or lease, or owner-occupied, or one or more mobilehomes, manufactured homes, or recreational vehicles located on privately-owned property when the lots are held out for rent or lease, or owner-occupied, as described in paragraph 5 of Executive Order N-9-25, for those persons displaced by this emergency and owners or operators of mobilehome or special occupancy parks providing housing for such displaced persons. This Paragraph shall apply only to the extent that any such development is not located within a public access easement or public access deed restriction, a previously approved public view corridor, or open space deed restriction. The suspensions in this Paragraph shall terminate three years from the date of this Order, after which time a local government agency may require the owner or operator of a mobilehome park or special occupancy park, or of a mobilehome, manufactured home, or recreational vehicle subject to the suspensions in this Paragraph, to obtain a coastal development permit, as applicable.

6. The expiration of any coastal development permit issued under the California Coastal Act is extended, and such permit shall continue to be valid without the need to apply for an extension, for an additional 3 years from the expiration date of such permit, with respect to projects involving properties or facilities that were substantially damaged or destroyed as a result of this emergency in Los Angeles County. To the extent any provision of the California Coastal Act, or any local ordinance authorized by the California Coastal Act, provides otherwise, it is suspended.

7. Any building permit issued for a project to repair, restore, demolish, or replace a structure or facility in Los Angeles County that was substantially damaged or destroyed as a result of this emergency shall be valid for three years from the date of issuance. To the extent it provides otherwise, Health and Safety Code section 18938.6 is suspended.

8. The reconstruction of residential dwellings that were originally designed and constructed to the 2019 California Building Standards Code and were subsequently destroyed as a result of this emergency in Los Angeles County may be permitted for reconstruction using the same design of the original dwelling that met the 2019 Codes without additional plan review at the discretion of the local enforcing agency. Any contrary provision of state law is suspended. Notwithstanding the foregoing, any applicable minimum elevation standards established in the 2022 California Building Standards Code and any subsequent updates (consistent with federal guidance on the implementation of the National Flood Insurance Program), and any applicable requirement to produce a required elevation certificate, shall continue to apply to dwellings subject to this Paragraph.

9. With respect to projects to repair, restore, demolish, or replace any residential dwelling units substantially damaged or destroyed as a result of this emergency:

    a. Government Code section 65915, subdivision (c)(3)(B), and section 66300.5, subdivision (h)(2), are suspended in the City of Los Angeles to the extent those provisions would otherwise require a project to replace residential units subject to any form of rent or price control with units affordable to income-qualified households, provided that all of the rent- or price-controlled units are replaced in compliance with the jurisdiction's rent or price control ordinance consistent with section 65915, subdivision (c)(3)(C)(ii).

    b. Government Code section 66300.5, subdivision (h)(3), is suspended in the City of Los Angeles to the extent it would otherwise require a project to replace residential dwelling units that are or were rented by lower or very low income households within the past five years, provided that any lower or very low income tenant residing in the units immediately before they were substantially damaged or destroyed is provided a right of first refusal consistent with the requirements in section 66300.6, subdivision (b)(4)(B).

10. For purposes of Government Code section 65590, projects to repair, restore, demolish, or replace any residential structure which contains less than three dwelling units substantially damaged or destroyed as a result of this emergency in any jurisdiction in Los Angeles County shall not be deemed "conversion or demolition of existing residential dwelling units" or construction of a "new housing development" if the repaired, restored, or replacement structure contains three or fewer dwelling units. To the extent any provision of section 65590 provides otherwise, it is suspended.

11. Health and Safety Code section 19851 is suspended in Los Angeles County for projects to rebuild, restore, demolish, or replace a structure substantially damaged or destroyed as result of this emergency, except that a County, or any city in the County, that duplicates a building plan maintained by the building department for a project subject to this paragraph shall require a person requesting the duplication of the plans to sign an affidavit containing the information in Health and Safety Code section 19851, subdivision (c)(2)-(3).

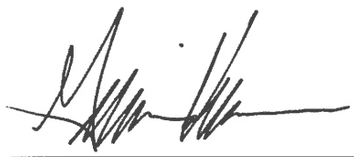
12. For the County of Los Angeles, the deadline to complete any rezonings required by Government Code section 65583, subdivision (c)(1)(A), section 65583.2, subdivision (c), and section 65583.4, subdivision (a), as pertaining to the County's sixth cycle housing element, shall be extended by 90 days.

13. With respect to efforts to repair, restore, demolish, or replace any properties or facilities substantially damaged or destroyed as a result of this emergency, Chapter 6 (commencing with section 1600) of Division 2 of the Fish and Game Code, and regulations adopted pursuant thereto, and Article 3 (commencing with section 2080) of Chapter 1.5 of Division 3 of the Fish and Game Code, and regulations adopted pursuant thereto, are suspended.

I FURTHER DIRECT that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 13th day of February 2025.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY WEBER, PH. D
Secretary of State