City Council Meeting
06-08-26
Item 5.E.

Council Agenda Report

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

Prepared by: Patrick Achis, Senior Planner

Reviewed by: Yolanda Bundy, Community Development Director
Tyler Eaton, Assistant Community Development Director

Approved by: Joseph D. Irvin, City Manager
Trevor Rusin, Interim City Attorney

Date prepared: May 20, 2026 Meeting date: June 8, 2026

Subject: Zoning Text Amendment No. 25-003 – An Amendment Incorporating New State Law and Clarifications To Title 17 (Zoning) of the Malibu Municipal Code to Update Regulations Related to Accessory Dwelling Units

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RECOMMENDED ACTION: 1) After the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 535 (Attachment 1), approving an amendment to Title 17 (Zoning) of the Malibu Municipal Code (MMC) approving Zoning Text Amendment (ZTA) No. 25-003 to update Accessory Dwelling Unit (ADU) regulations and determining the amendments are exempt from the California Environmental Quality Act (CEQA); and 2) Direct staff to schedule second reading and adoption of Ordinance No. 535 for the June 22, 2026 Regular City Council meeting.

FISCAL IMPACT: Funding for this project is included in the Adopted Budget for Fiscal Year 2025-26.

STRATEGIC IMPLEMENTATION PLAN: This item advances Goal 1, Objective 1.2 of the 2025–2028 Strategic Plan by modernizing development policies and streamlining permitting procedures consistent with state housing law.

DISCUSSION: The item before the City Council is consideration of amendments to the City's ADU ordinance in MMC Chapter 17.44 to ensure compliance with State laws. The proposed ordinance is in response to a letter issued by the California Department of Housing and Community Development (HCD) on November 13, 2024. This letter

addresses the City's prior ADU ordinance, specifically Ordinance No. 511, that amended the MCC. The ordinance also reflects recent changes to State ADU/JADU law.[1] In its November 2024 letter, HCD found that the City would need to revise its MMC Chapter 17.44, to incorporate mandatory statutory corrections and interpretive clarifications that align with HCD's view of ADU law.

The ordinance also includes the Planning Commission's recommendations from its August 18, 2025, January 20, 2026, and April 20, 2026, public hearings related to: 1) emergency fire access; 2) the relationship between the Local Coastal Program (LCP) and MMC when applied to ADUs; and 3) a setback exception for attached ADUs associated with fire rebuilds on beachfront parcels. The amendments will ensure the City's ADU ordinance remains consistent with state law.

The draft ordinance amendments are provided within Attachment 1 and represent the operative ordinance text recommended for adoption. A redline of Chapter 17.44 is provided as Attachment 2 for reference.

Background and Prior Actions

On January 8, 2024, the City Council adopted Ordinance Nos. 510 and 511, which updated second-unit regulations and established the City's ADU/JADU framework in the LCP and the MMC, respectively.

In accordance with Government Code section 66326, the City transmitted Ordinance No. 511 to HCD for review on February 1, 2024. On November 13, 2024, HCD issued a written findings letter identifying ten issues that HCD believes require amendment or clarification (Attachment 4). The issues include outdated Government Code references, the 20-foot ingress/egress standard, prohibition of attached ADUs on multifamily lots, application of the LCP, processing timelines, separate-sale and deed-restriction language, unit size and height limits, and a parking cross-reference. Staff has coordinated with HCD over the past year to revise the ordinance to respond to HCD.

On March 19, 2024, the City transmitted the LCP amendments (LCPA) to the California Coastal Commission (CCC) for processing, and City staff continues to work toward certification. While the LCPA remains pending, staff is requesting that the City Council consider adoption of an ordinance amending Title 17 (Zoning) of the MMC. Staff will

[1] Under Government Code Section 66326, jurisdictions are required to submit adopted ADU ordinances to HCD within 60 days of adoption, and HCD has statutory authority to review local ADU ordinances and issue findings letters regarding consistency with State ADU law. State law requires jurisdictions either to amend their ordinance to address HCD's findings or to adopt findings explaining why they believe their ordinance complies despite HCD's comments. Objective 1.e in the City's Housing Element also provides that the ADU ordinance must be updated within six months of receipt of comments from HCD or within six months of adoption of the Housing Element, whichever occurs later.

return at a later date with a corresponding LCPA for Planning Commission and City Council consideration. Therefore, the action before the City Council at this time is limited to adoption of the MMC ordinance; the Council is not being asked to consider or endorse LCP amendments as part of this action.

State ADU Law Changes

Since Ordinance Nos. 510 (LCP) and 511 (MMC) were adopted, several bills have further amended state ADU and JADU law. Some of the provisions of these bills were not in the City's prior ordinances but are included in the proposed ordinance and are summarized below.

- **SB 9 (2025)** strengthens HCD's oversight of local ADU ordinances by invalidating a city ADU ordinance if the city fails to submit it to HCD for review within the 60-day period imposed by statute or if the city fails to timely respond to HCD comments on a submitted ordinance. Invalidation of the city's ordinance leaves the city subject to just the few standards imposed by state law itself until the city complies.

- **SB 543 (2025)** clarifies that ADU and JADU size must be measured as *interior livable space*, aligns fee exemptions with these size definitions, and extends certain ADU enforcement and nullification provisions to JADUs.

- **SB 1211 (2024)** increases the number of detached ADUs permitted on lots with an existing multifamily dwelling from two to up to eight detached ADUs (provided the number of detached ADUs does not exceed the number of primary dwelling units on the lot) and prohibits requiring replacement of certain uncovered off-street parking spaces when the spaces are converted for ADUs.

- **AB 462 (2025)** requires that Coastal Development Permits (CDPs) for ADUs be processed within 60 days, similar to the 60-day deadline for processing ADUs under the MMC; eliminates appeals of ADU CDPs to the CCC; and provides a narrow exception allowing certificates of occupancy for detached ADUs to be issued before the primary dwelling in certain disaster-related circumstances. [Staff note: AB 462 will be addressed as part of a future LCPA and is not part of the proposed ordinance]

- **AB 1154 (2025)** revises JADU owner-occupancy standards so that an owner must reside on the property only when the JADU shares sanitation facilities with the primary dwelling and codifies a prohibition on short-term-rental use of JADUs.

More detailed descriptions of these laws are provided in Attachment 6. The proposed ordinance addresses these statutory changes and incorporates revisions in alignment with recommendations from the City Attorney and HCD.

Planning Commission Recommendation

On August 18, 2025, the Planning Commission adopted Resolution No. 25-65 recommending that the City Council approve ZTA No. 25-003 with amendments clarifying 1) the City's 20-foot emergency access language and 2) how the LCP and MMC apply to ADUs. Following the August 18, 2025 Planning Commission hearing, ZTA No. 25-003 was paused without adoption by the Council, so that the City could revise the amendment to incorporate additional state ADU and JADU legislation that has taken effect or will take effect later in 2026. The revised amendments were presented to the Planning Commission.

On January 20, 2026, the Planning Commission adopted Resolution No. 26-03, recommending that the City Council approve the revised ADU ordinance. The revised ordinance reflects recent state law. It also contains updated language for MMC Section 17.44.050(C) (Areas with Adequate Ingress and Egress) to implement emergency access through the Fire Code framework and avoid any possible unintended zoning restriction that could conflict with State-required ministerial ADU approvals.

On April 20, 2026, the Planning Commission adopted Resolution No. 26-16 (Attachment 3), as amended, revising the Planning Commission's prior recommendation from January 20, 2026 (Resolution No. 26-03) to include a setback provision for ADUs attached to beachfront fire rebuild replacement structures and recommending that the City Council approve the revised ADU ordinance. No other changes to the draft ordinance were proposed.

Summary of Proposed Amendments by MMC Section

The proposed amendments address HCD's findings letter, implement recent state ADU and JADU law changes, and include technical cleanup and cross-reference updates. All newly proposed changes to the ordinance since the Council's adoption of Ordinance No. 511 are indicated in <u>underline</u> text in the attached redlined document (Attachment 2). The City Council may recommend revisions to the draft ordinance, provided that the revisions comply with state law and are not more restrictive than state law allows.

<u>§ 17.44.040. Definitions.</u>

The definitions section is updated to add and refine terms such as "accessory structure," "livable space," "living area," "public transit," and "very high fire hazard severity zone." Several definitions were added verbatim from state law. The JADU definition is revised

to clarify that the 500-square-foot limit is based on interior livable space (per SB 543) and further clarification related to the internal connection to the main residence and sanitation.

§ 17.44.050. Permitted Locations

Amendments to this section clarify that ADUs are allowed on multifamily lots consistent with the State's categories for converted and detached units and removes the prior prohibition on ADUs that are attached to a multifamily structure (due to HCD's insistence that the prohibition is inconsistent with state law).

Amendments to this section also revise the prior draft 20-foot ingress and egress language to clarify that emergency access requirements are addressed through the California Fire Code and enforced by the Los Angeles County Fire Department. This avoids application of a categorical zoning requirement that could conflict with state ADU approvals and is consistent with guidance from HCD.

§ 17.44.060. Approvals (Class 1 and Class 2 ADUs)

This section reorganizes the approval structure into two ministerial categories.

- Class 1 "Statutorily Regulated" ADUs and JADUs correspond to the State-mandated scenarios, including one internal conversion ADU or JADU and one detached ADU on single-family lots and both converted and detached ADUs on multifamily lots. In all cases, compliant ADUs and JADUs are processed ministerially through an ADU permit (which replaces the prior discretionary Administrative Plan Review (APR) model for ADUs) and a building permit.

- Class 2 "Locally Regulated" ADUs encompass additional ADU configurations authorized by the City within the State's framework.

Per SB 1211, lots with an existing multifamily dwelling can have up to eight detached ADUs, or as many detached ADUs as there are primary dwelling units on the lot, whichever is less. The section also clarifies that applications are reviewed for compliance with both the MMC and the LCP and confirms that, if an ADU application is exempt from the need to obtain a CDP, then only the MMC applies.

Allowable ADU combinations are also updated in accordance with SB 543. For single-family lots, one converted ADU and one JADU may be combined with one limited detached ADU. For multifamily lots, detached ADUs may be combined with converted ADUs, subject to existing unit-count limits.

§ 17.44.070. Process and Timing

Amendments to this section replace the prior requirement to "act on" an application with the statutory requirement to "approve or deny" a complete application within 60 days, with applications deemed approved if the City does not act and no statutory exception applies.

For consistency with SB 543, new language is added to reflect that the City must determine completeness of ADU applications within 15 business days, provide a written list of any missing items, and limit subsequent requests to those items. Resubmittals are reviewed within another 15 business days, and applications are deemed complete if the City does not respond within the deadline. Applicants may appeal completeness determinations and denials to the Planning Commission, which must issue a final written decision within 60 business days.

§ 17.44.080. General ADU and JADU Requirements

Amendments to this section clarify zoning eligibility for Class 1 and Class 2 ADUs and confirms that JADUs may be created only on lots zoned for single-family residences. Deed restriction provisions are narrowed by removing certain conditions from the City's prior ordinance. HCD flagged ADU deed restrictions as inconsistent with state law.

Amendments to the section add JADU owner-occupancy exceptions consistent with AB 1154, including exceptions when the JADU has separate sanitation from the single-family residence or the property is owned by a public agency, land trust, or housing organization.

Under AB 462, a certificate of occupancy for a detached ADU may be issued before a certificate of occupancy for the primary dwelling if specific requirements are met, including the primary dwelling was substantially damaged or destroyed by an event referenced in the Governor's state of emergency proclamation.

§ 17.44.090. Specific Requirements for Class 2 ADUs

This section applies only to Class 2 (locally regulated) ADUs.

To maintain consistency with the City's existing floor area limits (referred to as Total Development Square Footage or TDSF), the proposed ordinance introduces a 38 percent Floor Area Ratio (FAR) for ADUs on lots subject to the City's local ADU standards. Similarly, this section has also been updated to add standards for lot coverage (per MMC impermeable lot coverage standards). However, FAR and impermeable coverage limits must yield as necessary to allow an ADU to be up to 800 square feet.

Consistent with current ADU statutes, the ordinance maintains a 1,000-square-foot maximum floor area but clarifies that attached ADUs may be allowed at least 800 square feet of interior livable space, regardless of percentage-based limits or (as noted above) FAR/lot-coverage standards. It reflects the state-law allowance for the reconstruction of an ADU in the footprint of a legally demolished accessory structure. The updated section further clarifies that required parking is one space per ADU or per bedroom, whichever is less, and specifies that replacement parking may not be required when covered or uncovered parking spaces are converted or demolished to create an ADU.

§ 17.44.090(B). Reduced Setbacks for ADUs Associated with Fire Rebuilds on Beachfront Lots

This exception allows attached ADUs in fire rebuilds on beachfront parcels to match the setbacks of the replacement structure.[2] Many fire-destroyed beachfront parcels are only 35 to 40 feet wide. MMC Section 17.60.020(C) authorizes replacement structures to retain the prior legally established setbacks, but any ADU portion extending beyond that footprint must meet the standard four-foot side and rear setbacks. On constrained parcels, this often makes attached ADUs infeasible and forces applicants to forgo the unit or seek discretionary relief. Housing Element Program 4.1 and state law both prioritize streamlined ADU production. The provision grants no setback reduction beyond what is already authorized for the replacement structure, and California Building Code requirements for openings near property lines apply equally to the ADU. Both the Los Angeles County Fire Department and the City Building Official must determine that the structure complies with all applicable Building and Fire Code requirements before the reduced setback applies. All other ADU development standards, including maximum unit size, height, and impermeable lot coverage, would continue to apply.

§17.44.100. Fees and Utilities

Per SB 543, the fee section now clarifies that ADUs and JADUs under 500 square feet of interior livable space do not increase assessable area for school impact fee purposes. Utility-connection provisions are reorganized to specify when separate connections and related connection fees and capacity charges are required and to ensure that any charges or fees are proportionate to the additional burden created by the ADU and do not exceed the reasonable cost of service.

[2] Under the Governor of California's Executive Order N-20-25, the Coastal Act and the California Environmental Quality Act (CEQA) are suspended for new ADUs built in conjunction with a rebuild of a primary structure that was destroyed in the 2025 Palisades Fire. As a result, any ADU built in conjunction with a rebuild does not need a coastal development permit. Instead, such ADUs may be permitted so long as they comply with MMC Section 17.44.

ENVIRONMENTAL REVIEW: The proposed actions are exempt from the requirements of CEQA pursuant to Public Resources Code Section 21080.17, which states that CEQA does not apply to the adoption of local ordinances that implement state ADU and JADU law and by CEQA Guidelines Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones.

Furthermore, the Planning Commission has analyzed the proposed amendments. CEQA applies only to projects that have potential to cause a significant effect on the environment. Under CEQA Guidelines section 15061(b)(3), if 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 the proposed amendments are required by state law and will not change existing development standards, such as density limits and environmental resource protection standards; consequently, there is no possibility that the amendment will have a significant effect on the environment, so the exemption set forth in Section 15061(b)(3) applies.

PUBLIC NOTICE: The City published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu on May 14, 2026 (Attachment 6). Additionally, the interested parties list for ADUs and Zoning Text Amendments were sent a courtesy email with the date of the agendized City Council item and instructions for participation. The City's ADU webpage (www.malibucity.org/adu) was also updated with notification of this meeting. As of the writing of the report, staff has not received public comments.

SUMMARY: Staff recommends that the City Council introduce Ordinance No. 535 approving ZTA No. 25-003 amending the regulations for ADUs and JADUs. Following City Council adoption, the ordinance will be transmitted to HCD for its required review. If HCD provides additional comments, staff will work with the agency to address the comments consistent with state law and the City's Housing Element obligations. If HCD finds that the ordinance is consistent with state law, the City will have satisfied its obligation under Government Code Section 66326 and the ordinance will remain in effect as adopted.

As part of the City's Housing Element Implementation Program, staff will continue work on Program 4.1. (Support Development of Accessory Dwelling Units), including creating a preapproved program ("plans off-the-shelf"), monitoring trends, and implementing additional actions if ADU production is lacking. Notably, the City issued permits for five new ADUs in 2025, a pace on track with the Housing Element's projections of 28 ADUs over the 2021–2029 cycle.

ATTACHMENTS:

1. Ordinance No. 535
2. Proposed Redline Amendments to MMC Chapter 17.44 (Reference)
3. Planning Commission Resolution No. 26-016
4. November 13, 2024 HCD Letter
5. Summary of Recent ADU State Law Changes
6. Public Hearing Notice

ORDINANCE NO. 535

AN ORDINANCE OF THE CITY OF MALIBU APPROVING ZONING TEXT AMENDMENT NO. 25-003 AN AMENDMENT TO TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE TO UPDATE ACCESSORY DWELLING UNIT REGULATIONS AND DETERMINING 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. State law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).

B. On January 8, 2024, the City Council adopted Ordinance No. 511 to update the second-unit regulations and establish the City's ADU/JADU framework.

C. On February 1, 2024, the City transmitted Ordinance No. 511 to the California Department of Housing and Community Development (HCD) for review pursuant to Government Code section 66326.

D. On November 13, 2024, HCD issued a written findings letter identifying required amendments and clarifications to ensure consistency with State ADU and JADU law.

E. On August 11, 2025, the City Council adopted Resolution No. 25-41 to: 1) initiate Zoning Text Amendment (ZTA) No. 25-003 to update ADU regulations consistent with State law; and 2) direct the Planning Commission to schedule a public hearing regarding the ZTA and provide a recommendation to the Council whether to approve, modify, or reject the amendments.

F. On August 18, 2025, the Planning Commission held a duly noticed public hearing on the proposed ADU amendments on ZTA No. 25-003, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and recommended adoption of Resolution No. 25-65 as amended.

G. To remain valid and enforceable, the City's ADU ordinance must be updated to reflect the most recent changes to State ADU and JADU law.

H. Since the August 18, 2025 hearing, ZTA No. 25-003 was not adopted so that the City could revise the amendment to incorporate additional State ADU and JADU legislation has taken effect or will take effect later in 2026, including, but not limited to, Assembly Bill (AB) 462, AB 1154, Senate Bill (SB) 9 (2025), SB 543, and SB 1211.

I. On January 20, 2026, the Planning Commission held a duly noticed public hearing on the revised draft of ZTA No. 25-003 incorporating new state law and clarifications, reviewed

the agenda report, written materials, public testimony, and all evidence in the record, and adopted Resolution No. 26-03 recommending City Council approval.

J. Following the January 20, 2026, hearing, staff identified the need for a reduced setback provision for ADUs attached to fire rebuild replacement structures authorized under Malibu Municipal Code (MMC) Section 17.60.020(C) and returned the item to the Planning Commission for consideration of the additional provision.

K. On March 26, 2026, a Notice of Planning Commission Public Hearing was timely published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

L. On April 20, 2026, the Planning Commission held a duly noticed public hearing on the revised draft of ZTA No. 25-003 to include a reduced setback provision for fire rebuilds; and reviewed the agenda report, written materials, public testimony, and all evidence in the record; and adopting Resolution No. 26-16, amending the Commission's prior recommendation on January 20, 2026 (Resolution No. 26-03) to include a setback provision for ADUs attached to beachfront fire rebuild replacement structures and recommending that the City Council approve revised ZTA No. 25-003, with no other changes to the proposed amendments.

M. On May 14, 2026, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

N. On June 8, 2026, the City Council held a duly noticed public hearing on the proposed ZTA No 25-003, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record. The City Council conducted a first reading and introduction of the Ordinance and directed staff to set a second reading for adoption of Ordinance No. XXX, approving ZTA No. 25-003.

SECTION 2. Environmental Review.

The actions before the City Council are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17, which states that CEQA does not apply to the adoption of local ordinances regulating the construction of second units and by CEQA Guidelines Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones.

Furthermore, the City Council has analyzed the proposed amendments. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council determined that the proposed amendments are required by State law and will not result in changes from existing development standards, such as density limits and environmental resource protection standards; consequently, there is no possibility the amendment will have a significant effect on the environment and accordingly, and the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Zoning Text Amendment Findings.

Pursuant to MMC Section 17.74.040(C), the City Council hereby makes the following findings to approve ZTA No. 25-003 as stated in Section 4 of this ordinance.

A. The subject ZTA is consistent with the objectives, policies, general land uses and programs specified in the General Plan. Specifically, it fulfills programs specified in Housing Element Goal 1 (Adequate Housing for the Existing and Projected Needs of All Economic Segments of the Community), and Housing Element Program 4.1 (Support Development of Accessory Dwelling Units) and Objective 1.e (timely updates to the ADU ordinance to maintain compliance with State law).

B. The City Council held a public hearing, reviewed the subject ZTA for compliance with the City of Malibu General Plan and MMC, and finds that the ZTA is consistent with the General Plan and MMC. The City Council finds that the adoption of the Ordinance is consistent with the General Plan as a matter of law under Government Code section 66314(c).

SECTION 4. Zoning Text Amendments.

Pursuant to MMC Section 17.74.040(D), the MMC shall be amended as follows:

A. Amend MMC Chapter 17.44 in its entirety as set forth below:

CHAPTER 17.44

ACCESSORY DWELLING UNITS

17.44.010. Title.

This chapter shall be known as the "Malibu Accessory Dwelling Unit Ordinance."

17.44.020. Purpose.

The purpose of this chapter is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code. The entire city of Malibu is located in a designated “Very High Fire Hazard Severity Zone,” and this chapter ensures that ADUs and JADUs are developed and operated on adequate sites, at proper and desirable locations, and that the goals and objectives of the general plan are observed.

17.44.030. Effect of conforming.

An ADU or JADU that conforms to the standards in this chapter will be:

A. Deemed to be consistent with the city's general plan and zoning designation for the lot on which the ADU or JADU is located.

B. Deemed not to exceed the allowable density for the lot on which the ADU or JADU is located.

C. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.

D. Approved without requiring the correction of a nonconforming zoning condition. This does not prevent the city from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12. For purposes of this chapter, "nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

17.44.040. Definitions.

A. "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

    1. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and

    2. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

B. “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

C. “Complete independent living facilities” means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or

multifamily dwelling is or will be situated.

D. "Efficiency kitchen" means a kitchen that satisfies all of the following:

1. A cooking facility with appliances;

2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

E. "Junior accessory dwelling unit" means a residential unit that

1. Is no more than 500 square feet of interior livable space in size;

2. Is contained entirely within an existing or proposed single-family structure; an enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;

3. Has an independent exterior entrance, apart from that of the primary dwelling;

4. Either includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and if the latter, the JADU includes an interior entrance to the main living area of the existing or proposed single-family structure in addition to the exterior entrance to the JADU; and

5. Includes an efficiency kitchen, as defined in this subsection D.

F. “Livable space” means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

G. “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

H. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit or junior accessory dwelling unit.

I. "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

J. "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, or subways and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

K. "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

L. Very high fire hazard severity zone" means zone as defined by Government Code Section 51177 and designated by Ordinance No. 299 and the City's adopted Local Responsibility Area Fire Hazard Severity Zone Maps, as may be amended from time to time.

17.44.050. Permitted locations.

A. ADUs and JADUs under Section 17.44.060(A) are allowed on lots that are in a residential or mixed-use zone.

B. ADUs under Section 17.44.060(B) are allowed on lots zoned to allow single-family or multifamily dwelling residential use.

C. Areas with Adequate Ingress and Egress. Since the entire City is located within a designated "Very High Fire Hazard Severity Zone," emergency ingress and egress shall be evaluated consistent with the City's adopted Fire Code (2025 California Fire Code, as amended), including the fire apparatus access road requirements set forth in California Fire Code Section 503, as enforced by the Los Angeles County Fire Department. Nothing in this subsection is intended to establish a zoning-based prohibition on ADUs or JADUS. Compliance with Fire Code and Building Code requirements is required; however, such requirements shall not be used as a zoning-based basis to deny an ADU or JADU that must be approved ministerially under State law.

17.44.060. Approvals.

The following approvals apply to ADUs and JADUs developed under this chapter. Because the city of Malibu lies entirely within the Coastal Zone, ADU applications may be subject to the requirements in the Local Coastal Program (LCP) in addition to the provisions of this chapter. If an ADU application is exempt from the need to obtain a coastal development permit, then only this chapter governs.

A. Class 1: Statutorily Regulated. Class 1 ADUs and JADUs are approved under Government Code Section 66323. If an ADU or JADU complies with each of the general requirements in Section 17.44.080 below, it is allowed subject to an ADU permit and a building permit in the following scenarios provided in this subsection (A). An ADU and JADU approved under subsection (A)(1) may be combined with an ADU approved under subsection (A)(2), and ADUs approved under subsection (A)(3) may be combined with ADUs approved under subsection (A)(4).

1. Converted on a Lot with Single-Family. One ADU as described in this subsection (A)(1) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

a. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case

of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and

b. Has exterior access that is independent of that for the single-family dwelling; and

c. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

d. The JADU complies with the requirements of Government Code Sections 66333 through 66339.

2. Limited Detached on a Lot with Single-Family. One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (A)(1) above if the detached ADU satisfies each of the following limitations:

a. The side- and rear-yard setbacks are at least four feet.

b. The total floor area is 800 square feet or smaller.

c. The peak height above grade does not exceed the applicable height limit in subsection 17.44.080(K) below.

3. Converted on a Lot with Multifamily. One or more ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection (A)(3) at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.

4. Limited Detached on a Lot with Multifamily. No more than two detached ADUs on a lot that has a proposed multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, if each detached ADU satisfies both of the following limitations:

a. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.

b. The peak height above grade does not exceed the applicable height limit provided in subsection 17.44.080(K) below.

c. If the lot has an existing multifamily dwelling, the quantity of detached

ADUs does not exceed the number of primary dwelling units on the lot.

B. Class 2: Locally Regulated. Class 2 ADUs are approved under Government Code sections 66314–66322.

1. Except as allowed under subsection A, all ADUs require an ADU permit and a building permit and must comply with the standards set forth in Sections 17.44.080 and 17.44.090.

2. The city may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the city's ADU ordinance. The ADU permit processing fee is determined by the city council by resolution.

17.44.070. Process and timing.

A. Completeness.

1. Determination in 15 days. The city will determine whether an application to create or serve an ADU or JADU is complete and will provide written notice of the determination to the applicant within 15 business days after the city receives the application submittal.

2. Incomplete items. If the city’s determination under subsection (A)(1) above is that the application is incomplete, the city’s notice must list the incomplete items and describe how the application can be made complete.

3. Cure. After receiving a notice that the application is incomplete, the applicant may cure and address the items that were deemed by the city to be incomplete.

4. Subsequent submittals. If the applicant submits additional information to address incomplete items, within 15 business days of the subsequent submittal the city will determine in writing whether the additional information remedies all the incomplete items that the city identified in its original notice. The city may not require the application to include an item that was not included in the original notice.

5. Deemed complete. If the city does not make a timely determination as required by this subsection (A), the application or resubmitted application is deemed complete for the purposes of subsection (C) below.

6. Appeal of incompleteness. An applicant may appeal the city’s determination that the application is incomplete by submitting a written appeal to the city clerk. The planning commission will review the written appeal and affirm or reverse the completeness determination and provide a final written determination to the applicant within 60 business days after receipt of the appeal.

B. No Discretion or Hearing. An ADU permit is considered and approved ministerially by the community development director without discretionary review or a hearing.

C. Deadline to Approve or Deny Ministerial Approvals. The city must approve or deny an application to create an ADU or JADU within 60 days from the date that the city receives a complete application. If the city has not approved or denied the completed application within 60 days, the application is deemed approved, unless either:

1. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or

2. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the city may delay ~~acting on~~ approving or denying the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

D. Denial. If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection C above.

E. Appeal of Denial. An applicant may appeal the city's denial of the application by submitting a written appeal to the city clerk. The planning commission will review the written appeal and affirm or reverse the denial and provide a final written determination to the applicant within 60 business days after receipt of the appeal.

F. Concurrent Review of Demolition**.** A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

17.44.080. General requirements.

The following requirements apply to all Class 1 and Class 2 ADUs and JADUs:

A. Zoning.

1. A Class 1 Statutorily Regulated ADU approved under Section 17.44.060(A) may be created on a lot in a residential or mixed-use zone.

2. A Class 2 Locally Regulated ADU approved under Section 17.44.060(B) may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.

3. In accordance with Government Code section 66333(a), a JADU may only be created on a lot zoned to allow single-family residences.

B. Rental Term. An ADU or JADU may not be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.

C. Rental Rate Reporting. To facilitate the city's obligation to identify adequate sites in accordance with Government Code Sections 65583.1 and 66330, and to help ADUs and JADUs to count towards the city's Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each January 1 following issuance of the building permit, the owner shall report the actual rent charged for the ADU or JADU during the prior year.

D. No Separate Conveyance. An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 66341, no ADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot). A JADU may not be sold or otherwise conveyed separately from the lot and the primary dwelling.

E. Septic System. If the ADU or JADU will connect to an on-site water treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

F. Fire Sprinklers.

1. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

2. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

G. Owner Occupancy with JADU.

a. Generally. As required by state law, JADUs are generally subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person’s legal domicile and permanent residence.

b. Exceptions. The owner-occupancy requirement in this subsection (G) does not apply in either of the following situations:

1. The JADU has separate sanitation facilities (i.e., does not share sanitation facilities with the existing primary dwelling unit structure).

2. The property is entirely owned by another governmental agency, land trust, or housing organization.

c. ADUs. ADUs are not subject to an owner-occupancy requirement.

H. Deed Restriction. Prior to issuance of a certificate of occupancy for a JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community Development Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the city and must provide that:

1. The JADU may not be sold separately from the primary dwelling.

2. A JADU created cannot be rented for less than 30 days.

3. The JADU is restricted to the approved size and to the other attributes allowed by this section.

4. The deed restriction runs with the land and may be enforced against future property owners.

5. The deed restriction is enforceable by the director or his or her designee for the benefit of the city. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the city is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the JADU in violation of the recorded restrictions or abatement of the illegal unit.

I. Building and Safety.

a. Must Comply With Building Code. Subject to subsection (I)(b) below, all ADUs and JADUs must comply with all local building code requirements.

b. No Change of Occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (I)(b) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

J. Certificate of Occupancy Timing.

a. Generally. No certificate of occupancy for an ADU or JADU may be issued before the certificate of occupancy is issued for the primary dwelling unit.

b. Limited Exception for State-Declared Emergencies. Notwithstanding

subsection (J)(a) above, a certificate of occupancy for an ADU may be issued before a certificate of occupancy for the primary dwelling if each of the following requirements are met:

1. The county is subject to a proclamation of a state of emergency made by the California Governor on or after February 1, 2025.

2. The primary dwelling was substantially damaged or destroyed by an event referenced in the Governor's state of emergency proclamation.

3. The ADU has been issued construction permits and has passed all required inspections.

4. The ADU is not attached to the primary dwelling.

K. Height.

a. No ADU subject to this chapter may exceed 16 feet in height above grade, except as provided in subsections (K)(b) through (K)(d) of this section.

b. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that matches the roof pitch of the primary dwelling unit.

c. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.

d. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (K)(d) may not exceed two stories.

17.44.090. Specific ADU requirements.

The following requirements apply only to Class 2 - Locally Regulated ADUs under Section 17.44.060 (B) above. This section does not apply to Class 1 Statutorily Regulated ADUs and JADUs under Section 17.44.060 (A) above.

A. Size.

1. The maximum floor area of a detached or attached ADU is 1,000 square feet.

2. Notwithstanding subsection (A)(1), an ADU that is created on a lot with an existing primary dwelling and that is attached to the primary dwelling is limited to 50 percent of the floor area of the existing primary dwelling, subject to subsection (A)(3).

3. Application of other development standards in this Section might further limit the size of the ADU, but no application of the percent-based size limit in subsection A.2 or of a FAR, front-setback, lot-coverage, or open-space requirement may require the ADU to be less than 800 square feet of interior livable space.

4. By definition, a JADU may not be larger than 500 square feet.

B. Setbacks.

1. The front yard setback of an ADU located on a non-beach front lot, subject to this Section, shall be at least 20 percent of the total depth of the lot, or 65 feet, whichever is less. On a beachfront lot, the front yard setback shall be 20 feet maximum or the average of the two immediate neighbors, whichever is less.

2. No part of any ADU that is subject to this Section may be located within four feet of a side or rear property line.

3. No setback is required for an ADU that is subject to this Section if the ADU is constructed in the same location and to the same dimensions as an existing structure.

4. On a beachfront lot, an ADU proposed in conjunction with, and attached to, a legally authorized replacement structure reconstructed pursuant to Section 17.60.020(C) following damage or destruction by a natural disaster, and which is located outside the footprint or envelope of the approved replacement structure, may maintain the same setback as the replacement structure it is attached to so long as the Los Angeles County Fire Department and City Building Official have determined the structure will comply will all necessary building and fire code requirements.

C. Floor Area Ratio (FAR). No ADU subject to Section 17.44.090 may cause the total FAR of the lot to exceed 38 percent, subject to subsection 17.44.090(A)(3).

D. Lot Coverage. No ADU subject to this Section may cause the total lot coverage of the lot to exceed 45% for up to ¼ acre; 35% of the net area for lots ¼ to ½ acre and 30% of the net area up to a maximum of 25,000 square feet per parcel for lots ½ acre of more in size, subject to subsection 17.44.090(A)(3).

E. Passageway. No passageway, as defined by Section 17.44.040, is required for an ADU.

F. Parking.

1. Generally. One off-street enclosed or unenclosed parking space is required for each ADU or bedroom, whichever is less. Unenclosed parking spaces may be provided in setback areas or as tandem parking, as defined by Section 17.44.040.

2. Exceptions. No parking under subsection (F)(1) above is required in the following situations:

a. The ADU is located within one-half mile walking distance of public transit, as defined in Section 17.44.040.

b. The ADU is located within an architecturally and historically significant historic district.

c. The ADU is part of the proposed or existing primary residence or part of an existing accessory structure, under Section 17.44.060(A)(1).

d. When on-street parking permits are required but not offered to the occupant of the ADU.

e. When there is an established car share vehicle stop located within one block of the ADU.

f. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (D)(2)(a) through (D)(2)(f).

3. No Replacement Parking Required. When a garage, carport, covered parking structure, or uncovered parking space is: (a) demolished in conjunction with the construction of an ADU; or (b) converted to an ADU, those off-street parking spaces are not required to be replaced. If replacement parking is proposed by the owner, the parking must be located on hardscape.

G. Internal Connection. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except to a legally established garage that serves the ADU.

17.44.100. Fees.

A. Impact Fees.

1. No impact fee shall be charged for an ADU that is less than 750 square feet of interior livable space.

2. Any impact fee that is required for an ADU that is 750 square feet or more of

interior livable space must be charged proportionately in relation to the floor area of the primary dwelling unit. (e.g., the square footage of the ADU, divided by the square footage of the primary dwelling, times the typical fee amount charged for a new dwelling.)

3. A JADU or ADU with less than 500 square feet of interior livable space does not increase assessable space by 500 square feet for purposes of Education Code section 17620(a)(1)(C), and is therefore not subject to school fees under Education Code section 17620.

4. For purposes of this Section, "impact fee" means a "fee" under the Mitigation Fee Act (Government Code Section 66000(b)) and a fee under the Quimby Act (Government Code Section 66477). It does not include any connection fee or capacity charge for water or sewer service.

B. Utility Fees.

1. An ADU that is constructed with a single-family dwelling shall be subject to standard utility-connection requirements and fees for a new residential use.

2. Converted ADUs created under Section 17.44.060(A)(1) are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required unless the ADU is constructed with a new single-family home (per subsection (B)(1) above).

3. All ADUs not covered by subsection (B)(1) or (B)(2) above require a new, separate utility connection directly between the ADU and the utility for any utility service that is provided by the City.

a. All utilities that are not provided by the City are subject to the connection and fee requirements of the utility provider.

b. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU, based on either the square footage or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system. The fee or charge may not exceed the reasonable cost of providing this service.

17.44.110. Nonconforming Zoning Code conditions, Building Code violations, and unpermitted structures.

A. Generally. The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

B. Unpermitted ADUs and JADUs Constructed Before 2020.

1. Permit to Legalize. As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if denial is based on either of the following grounds:

    a. The ADU or JADU violates applicable building standards, or

    b. The ADU does not comply with the state ADU or JADU law or with this Chapter 17.44.

2. Exceptions:

    a. Notwithstanding subsection (B)(1) above the city may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if the city makes a finding that correcting a violation is necessary to comply with the standards specified in California Health and Safety Code Section 17920.3.

    b. Subsection (B)(1) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code Section 17920.3.

SECTION 5. Effective Date.

In accordance with California Government Code section 36937, this Ordinance shall become effective on the 30th day following its passage and adoption.

SECTION 6. Severability.

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

SECTION 7. The City Clerk shall certify the adoption of this ordinance.

PASSED, APPROVED AND ADOPTED this ____ day of ____ 2026.

_____

BRUCE SILVERSTEIN, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

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

TREVOR RUSIN, Interim City Attorney

EXHIBIT A

CHAPTER 17.44

ACCESSORY DWELLING UNITS

§ 17.44.010. Title.

This chapter shall be known as the "Malibu Accessory Dwelling Unit Ordinance."

§ 17.44.020. Purpose.

The purpose of this chapter is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code. The entire city of Malibu is located in a designated “Very High Fire Hazard Severity Zone,” and this chapter ensures that ADUs and JADUs are developed and operated on adequate sites, at proper and desirable locations, and that the goals and objectives of the general plan are observed.

§ 17.44.030. Effect of conforming.

An ADU or JADU that conforms to the standards in this chapter will be:

E. Deemed to be consistent with the city's general plan and zoning designation for the lot on which the ADU or JADU is located.

F. Deemed not to exceed the allowable density for the lot on which the ADU or JADU is located.

G. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.

H. Approved without requiring the correction of a nonconforming zoning condition. This does not prevent the city from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12. For purposes of this chapter, "nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

§ 17.44.040. Definitions.

M. "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and

2. A manufactured home, as defined by Section 18007 of the California Health and Safety Code.

N. “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

O. “Complete independent living facilities” means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

P. "Efficiency kitchen" means a kitchen that satisfies all of the following:

1. A cooking facility with appliances;

2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

Q. "Junior accessory dwelling unit" means a residential unit that

1. Is no more than 500 square feet of interior livable space in size;

2. Is contained entirely within an existing or proposed single-family structure; an enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;

3. Has an independent exterior entrance, apart from that of the primary dwelling;

4. Either includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and if the latter, the JADU includes an interior entrance to the main living area of the existing or proposed single-family structure in addition to the exterior entrance to the JADU; and

5. Includes an efficiency kitchen, as defined in this subsection D.

R. “Livable space” means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

S. “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

T. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit or junior accessory dwelling unit.

U. "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

V. "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, or subways and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

W. "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

X. "Very high fire hazard severity zone" means zone as defined by Government Code Section 51177 and designated by Ordinance No. 299 and the City's adopted Local Responsibility Area Fire Hazard Severity Zone Maps, as may be amended from time to time.

§ 17.44.050. Permitted locations.

D. ADUs and JADUs under Section 17.44.060(A) are allowed on lots that are in a residential or mixed-use zone.

E. ADUs under Section 17.44.060(B) are allowed on lots zoned to allow single-family or multifamily dwelling residential use.

F. Areas with Adequate Ingress and Egress. Since the entire City is located within a designated "Very High Fire Hazard Severity Zone," emergency ingress and egress shall be evaluated consistent with the City's adopted Fire Code (2025 California Fire Code, as amended), including the fire apparatus access road requirements set forth in California Fire Code Section 503, as enforced by the Los Angeles County Fire Department. Nothing in this subsection is intended to establish a zoning-based prohibition on ADUs or JADUS. Compliance with Fire Code and Building Code requirements is required; however, such requirements shall not be used as a zoning-based basis to deny an ADU or JADU that must be approved ministerially under State law.

§ 17.44.060. Approvals.

The following approvals apply to ADUs and JADUs developed under this chapter. Because the city of Malibu lies entirely within the Coastal Zone, ADU applications may be subject to the requirements in the Local Coastal Program (LCP) in addition to the provisions of this chapter. If an ADU application is exempt from the need to obtain a coastal development permit, then only this chapter governs.

C. Class 1: Statutorily Regulated. Class 1 ADUs and JADUs are approved under Government Code Section 66323. If an ADU or JADU complies with each of the general requirements in Section 17.44.080 below, it is allowed subject to an ADU permit and a building permit in the following scenarios provided in this subsection (A). An ADU and JADU approved under subsection (A)(1) may be combined with an ADU approved under subsection (A)(2), and ADUs approved under subsection (A)(3) may be combined with ADUs approved under subsection (A)(4).

5. Converted on a Lot with Single-Family. One ADU as described in this subsection (A)(1) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

    e. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and

    f. Has exterior access that is independent of that for the single-family dwelling; and

    g. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

    h. The JADU complies with the requirements of Government Code Sections 66333 through 66339.

6. Limited Detached on a Lot with Single-Family. One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (A)(1) above if the detached ADU satisfies each of the following limitations:

    a. The side- and rear-yard setbacks are at least four feet.

    b. The total floor area is 800 square feet or smaller.

    c. The peak height above grade does not exceed the applicable height limit in subsection 17.44.080(K) below.

7. Converted on a Lot with Multifamily. One or more ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection (A)(3) at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.

8. Limited Detached on a Lot with Multifamily. No more than two detached ADUs on a lot that has a proposed multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, if each detached ADU satisfies both of the following limitations:

    a. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily

dwelling as a condition of approving the ADU.

b. The peak height above grade does not exceed the applicable height limit provided in subsection 17.44.080(K) below.

c. If the lot has an existing multifamily dwelling, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.

D. Class 2: Locally Regulated. Class 2 ADUs are approved under Government Code sections 66314–66322.

1. Except as allowed under subsection A, all ADUs require an ADU permit and a building permit and must comply with the standards set forth in Sections 17.44.080 and 17.44.090.

2. The city may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the city's ADU ordinance. The ADU permit processing fee is determined by the city council by resolution.

§ 17.44.070. Process and timing.

G. Completeness.

1. Determination in 15 days. The city will determine whether an application to create or serve an ADU or JADU is complete and will provide written notice of the determination to the applicant within 15 business days after the city receives the application submittal.

2. Incomplete items. If the city’s determination under subsection (A)(1) above is that the application is incomplete, the city’s notice must list the incomplete items and describe how the application can be made complete.

3. Cure. After receiving a notice that the application is incomplete, the applicant may cure and address the items that were deemed by the city to be incomplete.

4. Subsequent submittals. If the applicant submits additional information to address incomplete items, within 15 business days of the subsequent submittal the city will determine in writing whether the additional information remedies all the incomplete items that the city identified in its original notice. The city may not require the application to include an item that was not included in the original notice.

5. Deemed complete. If the city does not make a timely determination as required by this subsection (A), the application or resubmitted application is deemed complete for the purposes of subsection (C) below.

6. Appeal of incompleteness. An applicant may appeal the city’s determination that

the application is incomplete by submitting a written appeal to the city clerk. The planning commission will review the written appeal and affirm or reverse the completeness determination and provide a final written determination to the applicant within 60 business days after receipt of the appeal.

H. No Discretion or Hearing. An ADU permit is considered and approved ministerially by the community development director without discretionary review or a hearing.

I. Deadline to Approve or Deny Ministerial Approvals. The city must approve or deny an application to create an ADU or JADU within 60 days from the date that the city receives a complete application. If the city has not approved or denied the completed application within 60 days, the application is deemed approved, unless either:

1. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or

2. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the city may delay ~~acting on~~ approving or denying the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

J. Denial. If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection C above.

K. Appeal of Denial. An applicant may appeal the city's denial of the application by submitting a written appeal to the city clerk. The planning commission will review the written appeal and affirm or reverse the denial and provide a final written determination to the applicant within 60 business days after receipt of the appeal.

L. Concurrent Review of Demolition**.** A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

§ 17.44.080. General requirements.

The following requirements apply to all Class 1 and Class 2 ADUs and JADUs:

J. Zoning.

4. A Class 1 Statutorily Regulated ADU approved under Section 17.44.060(A) may be created on a lot in a residential or mixed-use zone.

5. A Class 2 Locally Regulated ADU approved under Section 17.44.060(B) may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.

6. In accordance with Government Code section 66333(a), a JADU may only be created on a lot zoned to allow single-family residences.

K. Rental Term. An ADU or JADU may not be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.

L. Rental Rate Reporting. To facilitate the city's obligation to identify adequate sites in accordance with Government Code Sections 65583.1 and 66330, and to help ADUs and JADUs to count towards the city's Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each January 1 following issuance of the building permit, the owner shall report the actual rent charged for the ADU or JADU during the prior year.

M. No Separate Conveyance. An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 66341, no ADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot). A JADU may not be sold or otherwise conveyed separately from the lot and the primary dwelling.

N. Septic System. If the ADU or JADU will connect to an on-site water treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

O. Fire Sprinklers.

1. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

2. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

P. Owner Occupancy with JADU.

a. Generally. As required by state law, JADUs are generally subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person’s legal domicile and permanent residence.

b. Exceptions. The owner-occupancy requirement in this subsection (G) does not

apply in either of the following situations:

3. The JADU has separate sanitation facilities (i.e., does not share sanitation facilities with the existing primary dwelling unit structure).

4. The property is entirely owned by another governmental agency, land trust, or housing organization.

c. ADUs. ADUs are not subject to an owner-occupancy requirement.

Q. Deed Restriction. Prior to issuance of a certificate of occupancy for a JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community Development Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the city and must provide that:

6. The JADU may not be sold separately from the primary dwelling.

7. A JADU created cannot be rented for less than 30 days.

8. The JADU is restricted to the approved size and to the other attributes allowed by this section.

9. The deed restriction runs with the land and may be enforced against future property owners.

10. The deed restriction is enforceable by the director or his or her designee for the benefit of the city. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the city is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the JADU in violation of the recorded restrictions or abatement of the illegal unit.

R. Building and Safety.

a. Must Comply With Building Code. Subject to subsection (I)(b) below, all ADUs and JADUs must comply with all local building code requirements.

b. No Change of Occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (I)(b) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

L. Certificate of Occupancy Timing.

a. Generally. No certificate of occupancy for an ADU or JADU may be issued before the certificate of occupancy is issued for the primary dwelling unit.

b. Limited Exception for State-Declared Emergencies. Notwithstanding subsection (J)(a) above, a certificate of occupancy for an ADU may be issued before a certificate of occupancy for the primary dwelling if each of the following requirements are met:

1. The county is subject to a proclamation of a state of emergency made by the California Governor on or after February 1, 2025.

2. The primary dwelling was substantially damaged or destroyed by an event referenced in the Governor's state of emergency proclamation.

3. The ADU has been issued construction permits and has passed all required inspections.

4. The ADU is not attached to the primary dwelling.

M. Height.

a. No ADU subject to this chapter may exceed 16 feet in height above grade, except as provided in subsections (K)(b) through (K)(d) of this section.

b. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that matches the roof pitch of the primary dwelling unit.

c. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.

d. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (K)(d) may not exceed two stories.

§ 17.44.090. Specific ADU requirements.

The following requirements apply only to Class 2 - Locally Regulated ADUs under Section 17.44.060 (B) above. This section does not apply to Class 1 Statutorily Regulated ADUs and JADUs under Section 17.44.060 (A) above.

H. Size.

1. The maximum floor area of a detached or attached ADU is 1,000 square feet.

2. Notwithstanding subsection (A)(1), an ADU that is created on a lot with an existing primary dwelling and that is attached to the primary dwelling is limited to 50 percent of the floor area of the existing primary dwelling, subject to subsection (A)(3).

3. Application of other development standards in this Section might further limit the size of the ADU, but no application of the percent-based size limit in subsection A.2 or of a FAR, front-setback, lot-coverage, or open-space requirement may require the ADU to be less than 800 square feet of interior livable space.

4. By definition, a JADU may not be larger than 500 square feet.

I. Setbacks.

1. The front yard setback of an ADU located on a non-beach front lot, subject to this Section, shall be at least 20 percent of the total depth of the lot, or 65 feet, whichever is less. On a beachfront lot, the front yard setback shall be 20 feet maximum or the average of the two immediate neighbors, whichever is less.

2. No part of any ADU that is subject to this Section may be located within four feet of a side or rear property line.

3. No setback is required for an ADU that is subject to this Section if the ADU is constructed in the same location and to the same dimensions as an existing structure.

4. On a beachfront lot, an ADU proposed in conjunction with, and attached to, a legally authorized replacement structure reconstructed pursuant to Section 17.60.020(C) following damage or destruction by a natural disaster, and which is located outside the footprint or envelope of the approved replacement structure, may maintain the same setback as the replacement structure it is attached to so long as the Los Angeles County Fire Department and City Building Official have determined the structure will comply will all necessary building and fire code requirements.

J. Floor Area Ratio (FAR). No ADU subject to Section 17.44.090 may cause the total

FAR of the lot to exceed 38 percent, subject to subsection 17.44.090(A)(3).

K. Lot Coverage. No ADU subject to this Section may cause the total lot coverage of the lot to exceed 45% for up to ¼ acre; 35% of the net area for lots ¼ to ½ acre and 30% of the net area up to a maximum of 25,000 square feet per parcel for lots ½ acre of more in size, subject to subsection 17.44.090(A)(3).

L. Passageway. No passageway, as defined by Section 17.44.040, is required for an ADU.

M. Parking.

1. Generally. One off-street enclosed or unenclosed parking space is required for each ADU or bedroom, whichever is less. Unenclosed parking spaces may be provided in setback areas or as tandem parking, as defined by Section 17.44.040.

2. Exceptions. No parking under subsection (F)(1) above is required in the following situations:

a. The ADU is located within one-half mile walking distance of public transit, as defined in Section 17.44.040.

b. The ADU is located within an architecturally and historically significant historic district.

c. The ADU is part of the proposed or existing primary residence or part of an existing accessory structure, under Section 17.44.060(A)(1).

d. When on-street parking permits are required but not offered to the occupant of the ADU.

e. When there is an established car share vehicle stop located within one block of the ADU.

f. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (D)(2)(a) through (D)(2)(f).

3. No Replacement Parking Required. When a garage, carport, covered parking structure, or uncovered parking space is: (a) demolished in conjunction with the construction of an ADU; or (b) converted to an ADU, those off-street parking spaces are not required to be replaced. If replacement parking is proposed by the owner, the parking must be located on hardscape.

N. Internal Connection. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except to a legally established garage that serves the ADU.

§ 17.44.100. Fees.

C. Impact Fees.

1. No impact fee shall be charged for an ADU that is less than 750 square feet of interior livable space.

2. Any impact fee that is required for an ADU that is 750 square feet or more of interior livable space must be charged proportionately in relation to the floor area of the primary dwelling unit. (e.g., the square footage of the ADU, divided by the square footage of the primary dwelling, times the typical fee amount charged for a new dwelling.)

3. A JADU or ADU with less than 500 square feet of interior livable space does not increase assessable space by 500 square feet for purposes of Education Code section 17620(a)(1)(C), and is therefore not subject to school fees under Education Code section 17620.

4. For purposes of this Section, "impact fee" means a "fee" under the Mitigation Fee Act (Government Code Section 66000(b)) and a fee under the Quimby Act (Government Code Section 66477). It does not include any connection fee or capacity charge for water or sewer service.

D. Utility Fees.

1. An ADU that is constructed with a single-family dwelling shall be subject to standard utility-connection requirements and fees for a new residential use.

2. Converted ADUs created under Section 17.44.060(A)(1) are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required unless the ADU is constructed with a new single-family home (per subsection (B)(1) above).

3. All ADUs not covered by subsection (B)(1) or (B)(2) above require a new, separate utility connection directly between the ADU and the utility for any utility service that is provided by the City.

   c. All utilities that are not provided by the City are subject to the connection and fee requirements of the utility provider.

   d. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU, based on either the square footage or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system. The fee or charge may not exceed the reasonable cost of providing this service.

§ 17.44.110. Nonconforming Zoning Code conditions, Building Code violations, and unpermitted structures.

C. Generally. The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

D. Unpermitted ADUs and JADUs Constructed Before 2020.

1. Permit to Legalize. As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if denial is based on either of the following grounds:

a. The ADU or JADU violates applicable building standards, or

b. The ADU does not comply with the state ADU or JADU law or with this Chapter 17.44.

2. Exceptions:

a. Notwithstanding subsection (B)(1) above the city may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if the city makes a finding that correcting a violation is necessary to comply with the standards specified in California Health and Safety Code Section 17920.3.

b. Subsection (B)(1) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code Section 17920.3.

Legend

Black Text – Adopted Malibu Municipal Code (MMC)
Red Text – Proposed Additions to Currently Adopted MMC
~~Red Strikethrough Text~~ – Deletions from the Currently Adopted MMC
Blue Text/~~Strikethrough~~ – Changes Since August 19, 2025 Planning Commission Meeting

CHAPTER 17.44
ACCESSORY DWELLING UNITS

§ 17.44.010. Title.

This chapter shall be known as the "Malibu Accessory Dwelling Unit Ordinance."

§ 17.44.020. Purpose.

The purpose of this chapter is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code ~~Sections 65852.2 and 65852.22~~. The entire city of Malibu is located in a designated "Very High Fire Hazard Severity Zone," and this chapter ensures that ADUs and JADUs are developed and operated on adequate sites, at proper and desirable locations, and that the goals and objectives of the general plan are observed.

§ 17.44.030. Effect of conforming.

An ADU or JADU that conforms to the standards in this chapter will be:

A. Deemed to be consistent with the city's general plan and zoning designation for the lot on which the ADU or JADU is located.

B. Deemed not to exceed the allowable density for the lot on which the ADU or JADU is located.

C. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.

D. ~~Permitted to maintain~~Approved without requiring the correction of a nonconforming zoning condition. This does not prevent the city from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12. For purposes of this chapter, "nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

§ 17.44.040. Definitions.

A. "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

a. An efficiency unit, as defined by Section 17958.1 of the California **Health and Safety**

Code ~~and the California Building Code~~; and

b. A manufactured home, as defined by Section 18007 of the California **Health and Safety Code**.

B. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

C. "Complete independent living facilities" means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

D. "Efficiency kitchen" means a kitchen that satisfies all of the following:

a. A cooking facility with appliances;

b. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

E. "Junior accessory dwelling unit" means a residential unit that

a. Is no more than 500 square feet of interior livable space in size;

b. Is contained entirely within an existing or proposed single-family structure; an enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;

c. Has an independent exterior entrance, apart from that of the primary dwelling;

d. ~~Includes~~Either includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and if the latter, the JADU includes an interior entrance to the main living area of the existing or proposed single-family structure in addition to the exterior entrance to the JADU; and

e. Includes an efficiency kitchen, as defined in this subsection D.

F. "Livable space" means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

G. "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

H. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit or junior accessory dwelling unit.

I. "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

J. "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, or subways and other forms of transportation that ~~charges~~charge set fares, run on fixed routes, and are available to the public.

K. "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

L. "Very high fire hazard severity zone" means zone as defined by Government Code Section 51177 and designated by Ordinance No. 299 and the City's adopted Local Responsibility Area Fire Hazard Severity Zone Maps~~:~~, as may be amended from time to time.

§ 17.44.050. Permitted locations.

A. ~~ADUS~~ADUs and JADUs under Section 17.44.060(A) ~~shall be~~are allowed on lots that are in a residential or mixed-use zone.

B. ADUs under Section 17.44.060(B) ~~shall be~~are 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, except as required by state law, a minimum street width of 20 feet shall be required. ADUs are not allowed on parcels that do not have ingress and egress to a street at least 20 feet in width.

~~D. Multifamily Lots. ADUs are allowed on multifamily lots pursuant to 17.44.060(A)(3) and (A)(4). New attached ADUs are not allowed.~~

§ 17.44.060. Approvals.

The following approvals apply to ADUs and JADUs developed under this chapter. Because the city of Malibu lies entirely within the Coastal Zone, ~~every~~ ADU applications may be ~~in the city is~~ subject to the requirements in ~~an analysis for compliance with~~ the Local Coastal Program (LCP) in addition to the provisions of ~~and Coastal Act before it is reviewed for compliance with~~ this chapter. If an ADU application is exempt from the need to obtain a coastal development permit, then only this chapter governs.~~If an application for an ADU is not subject to Both~~ the LCP~~, then~~ ~~and this Chapter~~ ~~governs. State~~ ~~apply to ADUs, in accordance with state law.~~ ~~law is explicit about the Coastal Act not being preempted by the State's ADU statute (Government Code Section 65852.2, subdivision (1)).~~ ~~The provisions of this chapter apply when not in conflict with the City's LCP.~~

A. ~~Building Permit Only~~Class 1: Statutorily Regulated. Class 1 ADUs and JADUs are approved under Government Code Section 66323. If an ADU or JADU complies with each of the general requirements in Section17.44.080 below, it is allowed ~~with only a~~ subject to an ADU permit and a building permit in the following scenarios provided in this subsection (A)~~:~~. An ADU and JADU approved under subsection (A)(1) may be combined with an ADU approved under subsection (A)(2), and ADUs approved under subsection (A)(3) may be combined with ADUs approved under subsection (A)(4).

1. Converted on ~~Single-Family~~a Lot with Single-Family. One ADU as described in this subsection (A)(1) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

    a. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and

egress; and

b. Has exterior access that is independent of that for the single-family dwelling; and

c. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

d. The JADU complies with the requirements of Government Code Sections ~~65852.22~~ 66333 through 66339.

2. Limited Detached on ~~Single-family~~a Lot with Single-Family. One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (A)(1) above if the detached ADU satisfies each of the following limitations:

a. The side- and rear-yard setbacks are at least four feet.

b. The total floor area is 800 square feet or smaller.

c. The peak height above grade does not exceed the applicable height limit in subsection 17.44.080(~~I~~ K) below.

3. Converted on ~~Multifamily~~a Lot with Multifamily. One or more ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection (A)(3) at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.

4. Limited Detached on ~~Multifamily~~a Lot with Multifamily. No more than two detached ADUs on a lot that has ~~an existing or~~a proposed multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, if each detached ADU satisfies both of the following limitations:

a. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.

b. The peak height above grade does not exceed the applicable height limit provided in subsection 17.44.080(~~I~~K) below.

c. If the lot has an existing multifamily dwelling, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.

B. ~~Administrative Plan Review Permit (APR)~~Class 2: Locally Regulated. Class 2 ADUs are approved under Government Code sections 66314–66322.

1. Except as allowed under ~~this~~ subsection A, ~~no~~ all ADUs ~~may be created without~~ require an ADU permit and a building permit ~~and an APR~~ ~~in compliance~~ and must comply with the standards set forth in Sections 17.44.080 and 17.44.090.

2. The city may charge a fee to reimburse it for costs incurred in processing ~~APR~~ADU permits, including the costs of adopting or amending the city's ADU ordinance. The ~~APR permit~~ADU permit processing fee is determined by the city council by resolution.

§ 17.44.070. Process and timing.

A. Completeness.

1. Determination in 15 days. The city will determine whether an application to create or serve an ADU or JADU is complete and will provide written notice of the determination to the applicant within 15 business days after the city receives the application submittal.

2. Incomplete items. If the city's determination under subsection (A)(1) above is that the application is incomplete, the city's notice must list the incomplete items and describe how the application can be made complete.

3. Cure. After receiving a notice that the application is incomplete, the applicant may cure and address the items that were deemed by the city to be incomplete.

4. Subsequent submittals. If the applicant submits additional information to address incomplete items, within 15 business days of the subsequent submittal the city will determine in writing whether the additional information remedies all the incomplete items that the city identified in its original notice. The city may not require the application to include an item that was not included in the original notice.

5. Deemed complete. If the city does not make a timely determination as required by this subsection (A), the application or resubmitted application is deemed complete for the purposes of subsection (C) below.

6. Appeal of incompleteness. An applicant may appeal the city's determination that the application is incomplete by submitting a written appeal to the city clerk. The planning commission will review the written appeal and affirm or reverse the completeness determination and provide a final written determination to the applicant within 60 business days after receipt of the appeal.

B. No Discretion or Hearing. An ~~APR~~ADU permit is considered and approved ministerially by the community development ~~planning~~ director without discretionary review or a hearing.

C. Deadline to Approve or Deny Ministerial Approvals. The city must approve or deny an application to create an ADU or JADU within 60 days from the date that the city receives a complete application~~,~~. If the city has not approved or denied the completed application within 60 days, the application is deemed approved, unless either:

1. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or

2. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the city may delay ~~acting on~~ approving or denying the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

D. Denial. If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection C above.

E. Appeal of Denial. An applicant may appeal the city's denial of the application by submitting a written appeal to the city clerk. The planning commission will review the written appeal and affirm or reverse the denial and provide a final written determination to the applicant within 60 business days after receipt of the appeal.

F. Concurrent Review of Demolition. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

§ 17.44.080. General ~~ADU and JADU~~ requirements.

The following requirements apply to all Class 1 and Class 2 ADUs and JADUs: ~~that are approved under **Section 17.44.060**.~~

A. Zoning.

1. A Class 1 Statutorily Regulated ADU approved under Section 17.44.060(A) may be created on a lot in a residential or mixed-use zone.

2. A Class 2 Locally Regulated ADU approved under Section 17.44.060(B) may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.

3. In accordance with Government Code section 66333(a), a JADU may only be created on a lot zoned to allow single-family residences.

B. Rental Term. An ADU or JADU may not be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.

C. Rental Rate Reporting. To facilitate the city's obligation to identify adequate sites in accordance with Government Code Sections 65583.1 and ~~65852.2~~66330, and to ~~allow~~help ADUs and JADUs to count towards the city's Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each January 1 following issuance of the building permit, the owner shall report the actual rent charged for the ADU or JADU during the prior year.

D. No Separate Conveyance. An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section ~~65852.26~~66341, no ADU ~~or JADU~~may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot). A JADU may not be sold or otherwise conveyed separately from the lot and the primary dwelling.

E. Septic System. If the ADU or JADU will connect to an on-site water treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

F. Fire Sprinklers.

1. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

2. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

G. ~~F.~~Owner Occupancy with JADU.

a. Generally. As required by state law, ~~all~~ JADUs are generally subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. ~~However, the owner-occupancy requirement in this subsection D does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization, in accordance with state law.~~

b. Exceptions. The owner-occupancy requirement in this subsection (G) does not apply in either of the following situations:

1. The JADU has separate sanitation facilities (i.e., does not share sanitation facilities with the existing primary dwelling unit structure).

2. The property is entirely owned by another governmental agency, land trust, or housing organization.

c. ADUs. ADUs are not subject to an owner-occupancy requirement.

H. Deed Restriction. Prior to issuance of a ~~building permit~~ certificate of occupancy for ~~an ADU or~~ a JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community Development Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the city and must provide that:

1. ~~Except as otherwise provided in Government Code Section 65852, 26, the ADU or~~The JADU may not be sold separately from the primary dwelling.

~~2. The ADU or JADU must remain an ADU unless city approval is obtained to convert the structure to a different accessory structure.~~

~~3.~~2. ~~An ADU or~~ A JADU created cannot be rented for less than 30 days.

~~4.~~3. The ~~ADU or~~ JADU is restricted to the approved size and to the other attributes allowed by this section.

~~6.~~4. The deed restriction runs with the land and may be enforced against future property owners.

~~5. The JADU must be reconverted to be part of the primary residence if the owner does not reside on the property.~~

~~7. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the director, providing evidence that the ADU or JADU has in fact been eliminated. The director may then determine whether~~

~~the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the director's determination consistent with other provisions of this code. If the ADU or JADU is not entirely physically removed but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this code.~~

~~8.~~5. The deed restriction is enforceable by the director or his or her designee for the benefit of the city. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the city is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ~~ADU or~~ JADU in violation of the recorded restrictions or abatement of the illegal unit.

I. ~~G.~~ Building and Safety.

a. ~~1.~~Must Comply With Building Code. Subject to subsection ~~(H)(2)~~(I)(b) below, all ADUs and JADUs must comply with all local building code requirements.

b. ~~2.~~No Change of Occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building

1. Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection ~~(H)(2)~~(I)(b) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

J. **Certificate of Occupancy Timing.**

a. Generally. No certificate of occupancy for an ADU or JADU may be issued before the certificate of occupancy is issued for the primary dwelling unit.

b. Limited Exception for State-Declared Emergencies. Notwithstanding subsection (J)(a) above, a certificate of occupancy for an ADU may be issued before a certificate of occupancy for the primary dwelling if each of the following requirements are met:

i. The county is subject to a proclamation of a state of emergency made by the California Governor on or after February 1, 2025.

ii. The primary dwelling was substantially damaged or destroyed by an event referenced in the Governor’s state of emergency proclamation.

iii. The ADU has been issued construction permits and has passed all required inspections.

iv. The ADU is not attached to the primary dwelling.

K. ~~H.~~ Height.

a. ~~1.~~No ADU subject to this chapter may exceed 16 feet in height above grade~~, as measured from existing or finished legal grade, whichever results in the lower building height~~ except as provided in subsections ~~(I)(2)~~ (K)(b) through ~~(I)(4)~~ (K)(d) of this section.

b. ~~2.~~A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that ~~is aligned~~ matches the roof pitch of the primary dwelling unit.

c. ~~3.~~A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.

d. ~~4.~~An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection ~~(I)(4)~~ (K)(d) may not exceed two stories.

§ 17.44.090. Specific ADU requirements.

The following requirements apply only to ~~ADUs that require an APR permit under Section 17.44.060(B) above.~~Class 2 - Locally Regulated ADUs under Section 17.44.060 (B) above. This section does not apply to Class 1 Statutorily Regulated ADUs and JADUs under Section 17.44.060 (A) above.

A. Size.

1. The maximum ~~square footage of an~~ floor area of a detached or attached ADU ~~shall be~~is 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 850 to 1,000 square foot limit.~~

2. Notwithstanding subsection (A)(1), an ADU that is created on a lot with an existing primary dwelling and that is attached to the primary dwelling is ~~further~~ limited to 50 percent of the floor area of the existing primary dwelling, subject to subsection (A)(3).

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 the percent-based size limit in subsection A.2 or of a~~n~~ FAR, front-setback, lot-coverage, or open-space requirement may require the ADU to be less than 800 square feet of interior livable space.

4. By definition, a JADU may not be larger than 500 square feet.

B. Setbacks.

1. The front yard setback of an ADU located on a non-beach front lot, subject to this Section ~~17.44.090~~, shall be at least 20 percent of the total depth of the lot, or 65 feet, whichever is less. On a beachfront lot, the front yard setback shall be 20 feet maximum

or the average of the two immediate neighbors, whichever is less.

2. No part of any ADU that is subject to this Section ~~17.44.090~~ may be located within four feet of a side or rear property line.

3. No ~~additional~~ setback is required for an ADU that is subject to this Section ~~17.44.090~~ if the ADU is constructed in the same location and to the same dimensions as an ~~existing legally established~~ ~~accessory~~ structure ~~that was is legally demolished and then replaced with the ADU~~.

4. On a beachfront lot, an ADU proposed in conjunction with, and attached to, a legally authorized replacement structure reconstructed pursuant to Section 17.60.020(C) following damage or destruction by a natural disaster, and which is located outside the footprint or envelope of the approved replacement structure, may maintain the same setback as the replacement structure it is attached to so long as the Los Angeles County Fire Department and City Building Official have determined the structure will comply with all necessary building and fire code requirements.

C. Floor Area Ratio (FAR). No ADU subject to Section 17.44.090 may cause the total FAR of the lot to exceed 38 percent, subject to subsection 17.44.090(A)(3).

D. ~~C.~~ Lot Coverage. No ADU subject to this Section may cause the total lot coverage of the lot to exceed 45% for up to ¼ acre; 35% of the net area for lots ¼ to ½ acre and 30% of the net area up to a maximum of 25,000 square feet per parcel for lots ½ acre of more in size, subject to subsection ~~(A)(3) above~~ 17.44.090(A)(3).

E~~C.~~Passageway. No passageway, as defined by Section 17.~~02~~44.0~~6~~40, is required for an ADU.

F~~D.~~Parking.

1. Generally. One off-street enclosed or unenclosed parking space is required for each ADU or bedroom, whichever is less. Unenclosed parking spaces may be provided in setback areas or as tandem parking, as defined by Section 17.~~02~~44.040.

2. Exceptions. No parking under subsection (F~~D~~)(1) above is required in the following situations:

   a. The ADU is located within one-half mile walking distance of public transit, as defined in Section 17.~~02.~~44.040.

   b. The ADU is located within an architecturally and historically significant historic district.

   c. The ADU is part of the proposed or existing primary residence or part of an existing accessory structure, under Section 17.44.060(A)(1).

   d. When on-street parking permits are required but not offered to the occupant of the ADU.

   e. When there is an established car share vehicle stop located within one block of the ADU.

f. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (FD)(2)(a) through (FD)(2)(f).

3. No Replacement ~~of~~ Parking Required. When a garage, carport, ~~or~~ covered parking structure, or uncovered parking space is: (a) demolished in conjunction with the construction of an ADU; or (b) converted to an ADU, those off-street parking spaces are not required to be replaced. If replacement parking is proposed by the owner, the parking must be located on hardscape.

GE. Internal Connection. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except to a legally established garage that serves the ADU.

§ 17.44.100. Fees.

A. Impact Fees.

1. No impact fee shall be charged for an ADU that is less than 750 square feet ~~in size~~ of interior livable space.

2. Any impact fee that is required for an ADU that is 750 square feet or ~~larger in size~~ more of interior livable space must be charged proportionately in relation to the ~~square footage~~floor area of the primary dwelling unit. (~~E.~~e.g., the square footage of the ADU, divided by the square footage of the primary dwelling, times the typical fee amount charged for a new dwelling.) ~~"Impact fee" here does not include any connection fee or capacity charge for water or sewer service.~~

3. A JADU or ADU with less than 500 square feet of interior livable space does not increase assessable space by 500 square feet for purposes of Education Code section 17620(a)(1)(C), and is therefore not subject to school fees under Education Code section 17620.

4. For purposes of this ~~s~~Section ~~17.44.100~~, "impact fee" means a "fee" under the Mitigation Fee Act (Government Code Section 66000(b)) and a fee under the Quimby Act (Government Code Section 66477). It does not include any connection fee or capacity charge for water or sewer service.

B. Utility Fees.

1. ~~ADUs~~ An ADU that is constructed with a single-family dwelling shall be subject to standard utility-connection requirements and fees for a new ~~primary dwelling~~ residential use.

2. Converted ADUs created under Section 17.44.060(A)(1) are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required unless the ADU is constructed with a new single-family home (per subsection (B~~.~~)(1) above).

3. All ADUs not covered by ~~Section 17.44.100~~ subsection (B)(1) or (B)(2) above require a

new, separate utility connection directly between the ADU and the utility~~.~~ for any utility service that is provided by the City. ~~The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU, based on either the square footage or the number of drainage fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system. The fee or charge may not exceed the reasonable cost of providing this service.~~

a. All utilities that are not provided by the City are subject to the connection and fee requirements of the utility provider.

b. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU, based on either the square footage or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system. The fee or charge may not exceed the reasonable cost of providing this service.

§ 17.44.110. Nonconforming Zoning Code conditions, Building Code violations, and unpermitted structures.

A. Generally. The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

B. Unpermitted ADUs and JADUs Constructed Before ~~2018~~2020.

1. Permit to Legalize. As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, ~~2018~~2020, if denial is based on either of the following grounds:

a. The ADU or JADU violates applicable building standards, or

b. The ADU does not comply with the state ADU ~~law (Government Code Section 65852.2) or this ADU~~or JADU laws or with this Chapter 17.44.

2. Exceptions:

a. Notwithstanding subsection (B)(1) above the city may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, ~~2018~~2020, if the city makes a finding that correcting a violation is necessary to ~~protect the health and safety of the public or of occupants of the structure~~comply with the standards specified in California Health and Safety Code Section 17920.3.

b. Subsection (B)(1) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code Section 17920.3.

CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 26-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU AMENDING THE COMMISSION'S PRIOR RECOMMENDATION (RESOLUTION NO. 26-03) TO INCLUDE A SETBACK PROVISION FOR ACCESSORY DWELLING UNITS ATTACHED TO BEACHFRONT FIRE REBUILD REPLACEMENT STRUCTURES, AND RECOMMENDING THAT THE CITY COUNCIL APPROVE REVISED ZONING TEXT AMENDMENT NO. 25-003

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

SECTION 1. Recitals.

A. On January 8, 2024, the City transmitted Ordinance No. 511 to the California Department of Housing and Community Development (HCD) for review pursuant to Government Code section 66326.

B. On November 13, 2024, HCD issued a written findings letter identifying required amendments and clarifications to ensure consistency with State Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) law.

C. On July 24, 2025, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu regarding Zoning Text Amendment (ZTA) No. 25-003.

D. On August 11, 2025, the City Council adopted Resolution No. 25-41 to: 1) initiate ZTA No. 25-003 to update accessory dwelling unit regulations consistent with State law, and 2) direct the Planning Commission to schedule a public hearing regarding the ZTA and provide a recommendation to the Council whether to approve, modify, or reject the amendment.

E. On August 18, 2025, the Planning Commission held a duly noticed public hearing on ZTA No. 25-003 and reviewed the agenda report, written materials, public testimony, and all evidence in the record.

F. To remain valid and enforceable, the City's ADU ordinance must be updated to reflect the most recent changes to State ADU and JADU law.

G. Since the August 18, 2025 hearing, ZTA No. 25-003 was not adopted so that the City could revise the amendment to reflect additional State ADU and JADU legislation has taken effect or will take effect through 2026, including, but not limited to, Assembly Bill (AB) 462, AB 1154, Senate Bill (SB) 9 (2025), SB 543, and SB 1211.

H. On December 25, 2025, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu regarding the revised ZTA No. 25-003.

I. On January 20, 2026, the Planning Commission held a duly noticed public hearing on the revised draft of ZTA No. 25-003 incorporating new state law and clarifications; and reviewed the agenda report, written materials, public testimony, and all evidence in the record.

J. Following the January 20, 2026, hearing, staff identified the need for a reduced setback provision for ADUs attached to fire rebuild replacement structures authorized under MMC Section 17.60.020(C) and returned the item to the Planning Commission for consideration of the additional provision.

K. On March 26, 2026, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and on March 27, 2026, a Notice of Planning Commission Public hearing was mailed to interested parties.

L. On April 20, 2026, the Planning Commission held a duly noticed public hearing on the revised draft of ZTA No. 25-003 to include a reduced setback provision for fire rebuilds; and reviewed the agenda report, written materials, public testimony, and all evidence in the record.

M. The proposed amendments are necessary to implement recent changes to State law and to address HCD's November 13, 2024 findings letter pursuant to Government Code section 66326.

N. The proposed amendments are consistent with the goals, objectives, and policies of the City's General Plan and Housing Element Program 4.1 (Support Development of Accessory Dwelling Units), and corresponding amendments to the Local Coastal Program will be processed separately for Coastal Commission certification.

SECTION 2. Environmental Review.

The project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17, which states that CEQA does not apply to the adoption of local ordinances regulating the construction of second units and by CEQA Guidelines Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones.

Furthermore, the Community Development Director has analyzed the proposed amendments. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Community Development Director determined that the proposed amendments are required by State law and will not result in changes from existing development standards, such as density limits and environmental resource protection standards; consequently, there is no possibility the amendment will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Zoning Text Amendment Findings.

Pursuant to Malibu Municipal Code (MMC) 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 ZTA 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. Specifically, it fulfills programs specified in Housing Element Goal 1 (Adequate Housing for the Existing and Projected Needs of All Economic Segments of the Community), and Housing Element Program 4.1 (Support Development of Accessory Dwelling Units) and Objective 1.e (timely updates to the ADU ordinance to maintain compliance with State law). In addition, adoption of the Ordinance is consistent with the General Plan as a matter of law under Government Code section 66314(c).

B. The Planning Commission held a public hearing, reviewed the subject ZTA for compliance with the City of Malibu General Plan, Malibu Municipal Code and the Malibu Local Coastal Program, and finds that the ZTA is consistent and recommends approval as amended to limit reduced Accessory Dwelling Unit setbacks to beachfront lots.

SECTION 4. Planning Commission Action.

Based on the above findings, the Planning Commission hereby recommends that the City Council approve the Zoning Ordinance Amendments detailed in Exhibit "A".

SECTION 5. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 20th day of April, 2026.

SKYLAR PEAK, Planning Commission Chair

ATTEST:

REBECCA EVANS, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 26-16 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting thereof held on the 20th day of April, 2026, by the following vote:

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

Rebecca Evans

REBECCA EVANS, Recording Secretary

Exhibit A: Draft Ordinance

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY OF MALIBU APPROVING ZONING TEXT AMENDMENT NO. 25-003 AN AMENDMENT TO TITLE 17 (ZONING) OF THE MALIBU MUNICIPAL CODE TO UPDATE ACCESSORY DWELLING UNIT REGULATIONS AND DETERMINING 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. State law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs").

B. On February 1, 2024, the City transmitted Ordinance No. 511 to the California Department of Housing and Community Development (HCD) for review pursuant to Government Code section 66326.

C. On November 13, 2024, HCD issued a written findings letter identifying required amendments and clarifications to ensure consistency with State ADU and JADU law.

D. On August 11, 2025, the City Council adopted Resolution No. 25-41 to: 1) initiate Zoning Text Amendment (ZTA) No. 25-003 to update accessory dwelling unit regulations consistent with State law, and 2) direct the Planning Commission to schedule a public hearing regarding the ZTA and provide a recommendation to the Council whether to approve, modify, or reject the amendment.

E. On August 18, 2025, the Planning Commission held a duly noticed public hearing on the proposed ADU amendments on ZTA No. 25-003, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and recommended approval of Resolution No. 25-65 some modifications.

F. To remain valid and enforceable, the City's ADU ordinance must be updated to reflect the most recent changes to State ADU and JADU law.

G. Since the August 18, 2025 hearing, ZTA No. 25-003 was not adopted so that the City could revise the amendment to incorporate additional State ADU and JADU legislation has taken effect or will take effect through 2026, including, but not limited to, Assembly Bill (AB) 462, AB 1154, Senate Bill (SB) 9 (2025), SB 543, and SB 1211.

H. On January 20, 2026, the Planning Commission held a duly noticed public hearing on the revised draft of ZTA No. 25-003 incorporating new state law and clarifications, reviewed the agenda report, written materials, public testimony, and all evidence in the record, and adopted Resolution No. 26-03 recommending City Council approval.

EXHIBIT A

I. Following the January 20, 2026, hearing, staff identified the need for a reduced setback provision for ADUs attached to fire rebuild replacement structures authorized under MMC Section 17.60.020(C) and returned the item to the Planning Commission for consideration of the additional provision.

J. On March 26, 2026, 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.

K. On April 20, 2026, the Planning Commission held a duly noticed public hearing on the revised draft of ZTA No. 25-003 to include a reduced setback provision for fire rebuilds; and reviewed the agenda report, written materials, public testimony, and all evidence in the record; and adopted Resolution No. 26-03, as amended to limit the ADU fire rebuild setback exception to beachfront lots only, recommending City Council approval of ZTA No. 25-003.

L. On May 14, 2026, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and mailed to interested parties.

M. On June 8, 2026, the City Council held a duly noticed public hearing on the proposed ZTA No 25-003, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information on the record and recommended approval of the amendments with some modifications.

SECTION 2. Environmental Review.

The project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17, which states that CEQA does not apply to the adoption of local ordinances regulating the construction of second units and by CEQA Guidelines Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones.

Furthermore, the Community Development Director has analyzed the proposed amendments. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Community Development Director determined that the proposed amendments are required by State law and will not result in changes from existing development standards, such as density limits and environmental resource protection standards; consequently, there is no possibility the amendment will have a significant effect on the environment and accordingly, and the exemption set forth in Section 15061(b)(3) applies.

SECTION 3. Zoning Text Amendment Findings.

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

A. The subject ZTA 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. Specifically, it fulfills programs specified in Housing Element Goal 1 (Adequate Housing for the Existing and Projected Needs of All Economic Segments of the Community), and Housing Element Program 4.1 (Support Development of Accessory Dwelling Units) and Objective 1.e (timely updates to the ADU ordinance to maintain compliance with State law). In addition, adoption of the Ordinance is consistent with the General Plan as a matter of law under Government Code section 66314(c).

B. The City Council held a public hearing, reviewed the subject ZTA for compliance with the City of Malibu General Plan, Malibu Municipal Code and the Malibu Local Coastal Program, and finds that the ZTA is consistent and recommends approval.

SECTION 4. Zoning Text Amendment No. 25-003, Amendments to the Malibu Municipal Code (MMC).

A. The City Council hereby amends Title 17 - Zoning in the MMC as set forth in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 5. Effective Date.

In accordance with California Government Code section 36937, this Ordinance shall become effective on the 30th day following its passage and adoption.

SECTION 6. Severability.

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality or the remaining portions of this Ordinance; it being hereby expressly declared and this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, or 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 _____ 2026.

_____
BRUCE LEE SILVERSTEIN, Mayor

ATTEST:

_____
KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

_____
TREVOR RUSIN, City Attorney

Exhibit A: Zoning Text Amendments to Chapter 17.44 of the Zoning Code (Accessory Dwelling Units)

EXHIBIT A - 1

Zoning Text Amendments to Chapter 17.44 of the Zoning Code

(ACCESSORY DWELLING UNITS)

CHAPTER 17.44

ACCESSORY DWELLING UNITS

§ 17.44.010. Title.

This chapter shall be known as the "Malibu Accessory Dwelling Unit Ordinance."

§ 17.44.020. Purpose.

The purpose of this chapter is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Chapter 13 of Division 1 of Title 7 of the California Government Code. The entire city of Malibu is located in a designated "Very High Fire Hazard Severity Zone," and this chapter ensures that ADUs and JADUs are developed and operated on adequate sites, at proper and desirable locations, and that the goals and objectives of the general plan are observed.

§ 17.44.030. Effect of conforming.

An ADU or JADU that conforms to the standards in this chapter will be:

A. Deemed to be consistent with the city's general plan and zoning designation for the lot on which the ADU or JADU is located.

B. Deemed not to exceed the allowable density for the lot on which the ADU or JADU is located.

C. Considered not to be subject to the application of any local ordinance, policy, or program to limit residential growth.

D. Approved without requiring the correction of a nonconforming zoning condition. This does not prevent the city from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12. For purposes of this chapter, "nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

§ 17.44.040. Definitions.

A. "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following:

   1. An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and

   2. A manufactured home, as defined by Section 18007 of the California Health

and Safety Code.

B. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

C. "Complete independent living facilities" means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

D. "Efficiency kitchen" means a kitchen that satisfies all of the following:

1. A cooking facility with appliances;

2. A food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the JADU.

E. "Junior accessory dwelling unit" means a residential unit that

1. Is no more than 500 square feet of interior livable space in size;

2. Is contained entirely within an existing or proposed single-family structure; an enclosed use within the residence, such as an attached garage, is considered to be a part of and contained within the single-family structure;

3. Has an independent exterior entrance, apart from that of the primary dwelling;

4. Either includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure, and if the latter, the JADU includes an interior entrance to the main living area of the existing or proposed single-family structure in addition to the exterior entrance to the JADU; and

5. Includes an efficiency kitchen, as defined in this subsection D.

F. "Livable space" means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

G. "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

H. "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit or junior accessory dwelling unit.

I. "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

J. "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, or subways and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

K. "Tandem parking" means that two or more automobiles are parked on a driveway or in

any other location on a lot, lined up behind one another.

L. "Very high fire hazard severity zone" means zone as defined by Government Code Section 51177 and designated by Ordinance No. 299 and the City's adopted Local Responsibility Area Fire Hazard Severity Zone Maps, as may be amended from time to time.

§ 17.44.050. Permitted locations.

A. ADUs and JADUs under Section 17.44.060(A) are allowed on lots that are in a residential or mixed-use zone.

B. ADUs under Section 17.44.060(B) are allowed on lots zoned to allow single-family or multifamily dwelling residential use.

C. Areas with Adequate Ingress and Egress. Since the entire City is located within a designated "Very High Fire Hazard Severity Zone," emergency ingress and egress shall be evaluated consistent with the City's adopted Fire Code (2025 California Fire Code, as amended), including the fire apparatus access road requirements set forth in California Fire Code Section 503, as enforced by the Los Angeles County Fire Department. Nothing in this subsection is intended to establish a zoning-based prohibition on ADUs or JADUS. Compliance with Fire Code and Building Code requirements is required; however, such requirements shall not be used as a zoning-based basis to deny an ADU or JADU that must be approved ministerially under State law.

§ 17.44.060. Approvals.

The following approvals apply to ADUs and JADUs developed under this chapter. Because the city of Malibu lies entirely within the Coastal Zone, ADU applications may be subject to the requirements in the Local Coastal Program (LCP) in addition to the provisions of this chapter. If an ADU application is exempt from the need to obtain a coastal development permit, then only this chapter governs.

A. Class 1: Statutorily Regulated. Class 1 ADUs and JADUs are approved under Government Code Section 66323. If an ADU or JADU complies with each of the general requirements in Section 17.44.080 below, it is allowed subject to an ADU permit and a building permit in the following scenarios provided in this subsection (A). An ADU and JADU approved under subsection (A)(1) may be combined with an ADU approved under subsection (A)(2), and ADUs approved under subsection (A)(3) may be combined with ADUs approved under subsection (A)(4).

1. Converted on a Lot with Single-Family. One ADU as described in this subsection (A)(1) and one JADU on a lot with a proposed or existing single-family dwelling on it, where the ADU or JADU:

a. Is either: within the space of a proposed single-family dwelling; within the existing space of an existing single-family dwelling; or (in the case

of an ADU only) within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress; and

b. Has exterior access that is independent of that for the single-family dwelling; and

c. Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.

d. The JADU complies with the requirements of Government Code Sections 66333 through 66339.

2. Limited Detached on a Lot with Single-Family. One detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection (A)(1) above if the detached ADU satisfies each of the following limitations:

   a. The side- and rear-yard setbacks are at least four feet.

   b. The total floor area is 800 square feet or smaller.

   c. The peak height above grade does not exceed the applicable height limit in subsection 17.44.080(K) below.

3. Converted on a Lot with Multifamily. One or more ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. Under this subsection (A)(3) at least one converted ADU is allowed within an existing multifamily dwelling, up to a quantity equal to 25 percent of the existing multifamily dwelling units.

4. Limited Detached on a Lot with Multifamily. No more than two detached ADUs on a lot that has a proposed multifamily dwelling, or up to eight detached ADUs on a lot with an existing multifamily dwelling, if each detached ADU satisfies both of the following limitations:

   a. The side- and rear-yard setbacks are at least four feet. If the existing multifamily dwelling has a rear or side yard setback of less than four feet, the city will not require any modification to the multifamily dwelling as a condition of approving the ADU.

   b. The peak height above grade does not exceed the applicable height limit provided in subsection 17.44.080(K) below.

   c. If the lot has an existing multifamily dwelling, the quantity of detached ADUs does not exceed the number of primary dwelling units on the lot.

B. Class 2: Locally Regulated. Class 2 ADUs are approved under Government Code sections 66314–66322.

1. Except as allowed under subsection A, all ADUs require an ADU permit and a building permit and must comply with the standards set forth in Sections 17.44.080 and 17.44.090.

2. The city may charge a fee to reimburse it for costs incurred in processing ADU permits, including the costs of adopting or amending the city's ADU ordinance. The ADU permit processing fee is determined by the city council by resolution.

§ 17.44.070. Process and timing.

A. Completeness.

1. Determination in 15 days. The city will determine whether an application to create or serve an ADU or JADU is complete and will provide written notice of the determination to the applicant within 15 business days after the city receives the application submittal.

2. Incomplete items. If the city's determination under subsection (A)(1) above is that the application is incomplete, the city's notice must list the incomplete items and describe how the application can be made complete.

3. Cure. After receiving a notice that the application is incomplete, the applicant may cure and address the items that were deemed by the city to be incomplete.

4. Subsequent submittals. If the applicant submits additional information to address incomplete items, within 15 business days of the subsequent submittal the city will determine in writing whether the additional information remedies all the incomplete items that the city identified in its original notice. The city may not require the application to include an item that was not included in the original notice.

5. Deemed complete. If the city does not make a timely determination as required by this subsection (A), the application or resubmitted application is deemed complete for the purposes of subsection (C) below.

6. Appeal of incompleteness. An applicant may appeal the city's determination that the application is incomplete by submitting a written appeal to the city clerk. The planning commission will review the written appeal and affirm or reverse the completeness determination and provide a final written determination to the applicant within 60 business days after receipt of the appeal.

B. No Discretion or Hearing. An ADU permit is considered and approved ministerially by the community development director without discretionary review or a hearing.

C. Deadline to Approve or Deny Ministerial Approvals. The city must approve or deny an application to create an ADU or JADU within 60 days from the date that the city

receives a complete application. If the city has not approved or denied the completed application within 60 days, the application is deemed approved, unless either:

1. The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay, or

2. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the city may delay ~~acting on~~ approving or denying the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family or multifamily dwelling, but the application to create the ADU or JADU will still be considered ministerially without discretionary review or a hearing.

D. Denial. If the city denies an application to create an ADU or JADU, the city must provide the applicant with comments that include, among other things, a list of all the defective or deficient items and a description of how the application may be remedied by the applicant. Notice of the denial and corresponding comments must be provided to the applicant within the 60-day time period established by subsection C above.

E. Appeal of Denial. An applicant may appeal the city's denial of the application by submitting a written appeal to the city clerk. The planning commission will review the written appeal and affirm or reverse the denial and provide a final written determination to the applicant within 60 business days after receipt of the appeal.

F. Concurrent Review of Demolition. A demolition permit for a detached garage that is to be replaced with an ADU is reviewed with the application for the ADU and issued at the same time.

§ 17.44.080. General requirements.

The following requirements apply to all Class 1 and Class 2 ADUs and JADUs:

A. Zoning.

1. A Class 1 Statutorily Regulated ADU approved under Section 17.44.060(A) may be created on a lot in a residential or mixed-use zone.

2. A Class 2 Locally Regulated ADU approved under Section 17.44.060(B) may be created on a lot that is zoned to allow single-family dwelling residential use or multifamily dwelling residential use.

3. In accordance with Government Code section 66333(a), a JADU may only be created on a lot zoned to allow single-family residences.

B. Rental Term. An ADU or JADU may not be rented for a term that is shorter than 30 days. This prohibition applies regardless of when the ADU or JADU was created.

C. Rental Rate Reporting. To facilitate the city's obligation to identify adequate sites in accordance with Government Code Sections 65583.1 and 66330, and to help ADUs and JADUs to count towards the city's Regional Housing Needs Assessment (RHNA) requirements, within 90 days after each January 1 following issuance of the building permit, the owner shall report the actual rent charged for the ADU or JADU during the prior year.

D. No Separate Conveyance. An ADU or JADU may be rented, but, except as otherwise provided in Government Code Section 66341, no ADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot). A JADU may not be sold or otherwise conveyed separately from the lot and the primary dwelling.

E. Septic System. If the ADU or JADU will connect to an on-site water treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

F. Fire Sprinklers.

1. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

2. The construction of an ADU does not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.

G. Owner Occupancy with JADU.

a. Generally. As required by state law, JADUs are generally subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence.

b. Exceptions. The owner-occupancy requirement in this subsection (G) does not apply in either of the following situations:

1. The JADU has separate sanitation facilities (i.e., does not share sanitation facilities with the existing primary dwelling unit structure).

2. The property is entirely owned by another governmental agency, land trust, or housing organization.

c. ADUs. ADUs are not subject to an owner-occupancy requirement.

H. Deed Restriction. Prior to issuance of a certificate of occupancy for a JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Community Development Director. The deed restriction must run with the land and bind all future owners. The form of the deed restriction will be provided by the city and must provide that:

1. The JADU may not be sold separately from the primary dwelling.

2. A JADU created cannot be rented for less than 30 days.

3. The JADU is restricted to the approved size and to the other attributes allowed by this section.

4. The deed restriction runs with the land and may be enforced against future property owners.

5. The deed restriction is enforceable by the director or his or her designee for the benefit of the city. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the city is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the JADU in violation of the recorded restrictions or abatement of the illegal unit.

I. Building and Safety.

a. Must Comply With Building Code. Subject to subsection (I)(b) below, all ADUs and JADUs must comply with all local building code requirements.

b. No Change of Occupancy. Construction of an ADU does not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code, unless the building official or Code Enforcement Division officer makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this subsection (I)(b) prevents the city from changing the occupancy code of a space that was uninhabitable space or that was only permitted for nonresidential use and was subsequently converted for residential use in accordance with this section.

J. Certificate of Occupancy Timing.

a. Generally. No certificate of occupancy for an ADU or JADU may be issued before the certificate of occupancy is issued for the primary dwelling unit.

b. Limited Exception for State-Declared Emergencies. Notwithstanding subsection (J)(a) above, a certificate of occupancy for an ADU may be issued before a certificate of occupancy for the primary dwelling if each of the following requirements are met:

1. The county is subject to a proclamation of a state of emergency made by the California Governor on or after February 1, 2025.

2. The primary dwelling was substantially damaged or destroyed by an event

referenced in the Governor's state of emergency proclamation.

3. The ADU has been issued construction permits and has passed all required inspections.

4. The ADU is not attached to the primary dwelling.

K. Height.

a. No ADU subject to this chapter may exceed 16 feet in height above grade, except as provided in subsections (K)(b) through (K)(d) of this section.

b. A detached ADU may be up to 18 feet in height if it is created on a lot with an existing or proposed single-family or multifamily dwelling unit that is located within one-half mile walking distance of a major transit stop as those terms are defined in Section 21155 of the Public Resources Code, and the ADU may be up to two additional feet in height (for a maximum of 20 feet) if necessary to accommodate a roof pitch on the ADU that matches the roof pitch of the primary dwelling unit.

c. A detached ADU created on a lot with an existing or proposed multifamily dwelling that has more than one story above grade may not exceed 18 feet in height.

d. An ADU that is attached to the primary dwelling may not exceed 25 feet in height or the height limitation imposed by the underlying zone that applies to the primary dwelling, whichever is lower. Notwithstanding the foregoing, ADUs subject to this subsection (K)(d) may not exceed two stories.

§ 17.44.090. Specific ADU requirements.

The following requirements apply only to Class 2 - Locally Regulated ADUs under Section 17.44.060 (B) above. This section does not apply to Class 1 Statutorily Regulated ADUs and JADUs under Section 17.44.060 (A) above.

A. Size.

1. The maximum floor area of a detached or attached ADU is 1,000 square feet.

2. Notwithstanding subsection (A)(1), an ADU that is created on a lot with an existing primary dwelling and that is attached to the primary dwelling is limited to 50 percent of the floor area of the existing primary dwelling, subject to subsection (A)(3).

3. Application of other development standards in this Section might further limit the size of the ADU, but no application of the percent-based size limit in subsection A.2 or of a FAR, front-setback, lot-coverage, or open-space requirement may require the ADU to be less than 800 square feet of interior

livable space.

4. By definition, a JADU may not be larger than 500 square feet.

B. Setbacks.

1. The front yard setback of an ADU located on a non-beach front lot, subject to this Section, shall be at least 20 percent of the total depth of the lot, or 65 feet, whichever is less. On a beachfront lot, the front yard setback shall be 20 feet maximum or the average of the two immediate neighbors, whichever is less.

2. No part of any ADU that is subject to this Section may be located within four feet of a side or rear property line.

3. No setback is required for an ADU that is subject to this Section if the ADU is constructed in the same location and to the same dimensions as an existing structure.

4. On a beachfront lot, an ADU proposed in conjunction with, and attached to, a legally authorized replacement structure reconstructed pursuant to Section 17.60.020(C) following damage or destruction by a natural disaster, and which is located outside the footprint or envelope of the approved replacement structure, may maintain the same setback as the replacement structure it is attached to so long as the Los Angeles County Fire Department and City Building Official have determined the structure will comply will all necessary building and fire code requirements.

C. Floor Area Ratio (FAR). No ADU subject to Section 17.44.090 may cause the total FAR of the lot to exceed 38 percent, subject to subsection 17.44.090(A)(3).

D. Lot Coverage. No ADU subject to this Section may cause the total lot coverage of the lot to exceed 45% for up to ¼ acre; 35% of the net area for lots ¼ to ½ acre and 30% of the net area up to a maximum of 25,000 square feet per parcel for lots ½ acre of more in size, subject to subsection 17.44.090(A)(3).

E. Passageway. No passageway, as defined by Section 17.44.040, is required for an ADU.

F. Parking.

1. Generally. One off-street enclosed or unenclosed parking space is required for each ADU or bedroom, whichever is less. Unenclosed parking spaces may be provided in setback areas or as tandem parking, as defined by Section 17.44.040.

2. Exceptions. No parking under subsection (F)(1) above is required in the following situations:

a. The ADU is located within one-half mile walking distance of public transit, as defined in Section 17.44.040.

b. The ADU is located within an architecturally and historically significant

historic district.

c. The ADU is part of the proposed or existing primary residence or part of an existing accessory structure, under Section 17.44.060(A)(1).

d. When on-street parking permits are required but not offered to the occupant of the ADU.

e. When there is an established car share vehicle stop located within one block of the ADU.

f. When the permit application to create an ADU is submitted with an application to create a new single-family or new multifamily dwelling on the same lot, provided that the ADU or the lot satisfies any other criteria listed in subsections (D)(2)(a) through (D)(2)(f).

3. No Replacement Parking Required. When a garage, carport, covered parking structure, or uncovered parking space is: (a) demolished in conjunction with the construction of an ADU; or (b) converted to an ADU, those off-street parking spaces are not required to be replaced. If replacement parking is proposed by the owner, the parking must be located on hardscape.

G. Internal Connection. An attached ADU shall not be connected internally to the main residence. A detached ADU shall not be connected internally to any accessory structure except to a legally established garage that serves the ADU.

§ 17.44.100. Fees.

A. Impact Fees.

1. No impact fee shall be charged for an ADU that is less than 750 square feet of interior livable space.

2. Any impact fee that is required for an ADU that is 750 square feet or more of interior livable space must be charged proportionately in relation to the floor area of the primary dwelling unit. (e.g., the square footage of the ADU, divided by the square footage of the primary dwelling, times the typical fee amount charged for a new dwelling.)

3. A JADU or ADU with less than 500 square feet of interior livable space does not increase assessable space by 500 square feet for purposes of Education Code section 17620(a)(1)(C), and is therefore not subject to school fees under Education Code section 17620.

4. For purposes of this Section, "impact fee" means a "fee" under the Mitigation Fee Act (Government Code Section 66000(b)) and a fee under the Quimby Act (Government Code Section 66477). It does not include any connection fee or

capacity charge for water or sewer service.

B. Utility Fees.

1. An ADU that is constructed with a single-family dwelling shall be subject to standard utility-connection requirements and fees for a new residential use.

2. Converted ADUs created under Section 17.44.060(A)(1) are not required to have a new or separate utility connection directly between the ADU and the utility. Nor is a connection fee or capacity charge required unless the ADU is constructed with a new single-family home (per subsection (B)(1) above).

3. All ADUs not covered by subsection (B)(1) or (B)(2) above require a new, separate utility connection directly between the ADU and the utility for any utility service that is provided by the City.

   a. All utilities that are not provided by the City are subject to the connection and fee requirements of the utility provider.

   b. The connection is subject to a connection fee or capacity charge that is proportionate to the burden created by the ADU, based on either the square footage or the number of drainage-fixture units (DFU) values, as defined by the Uniform Plumbing Code, upon the water or sewer system. The fee or charge may not exceed the reasonable cost of providing this service.

§ 17.44.110. Nonconforming Zoning Code conditions, Building Code violations, and unpermitted structures.

A. Generally. The city will not deny an ADU or JADU application due to a nonconforming zoning condition, building code violation, or unpermitted structure on the lot that does not present a threat to the public health and safety and that is not affected by the construction of the ADU or JADU.

B. Unpermitted ADUs and JADUs Constructed Before 2020.

1. Permit to Legalize. As required by state law, the city may not deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if denial is based on either of the following grounds:

   a. The ADU or JADU violates applicable building standards, or

   b. The ADU does not comply with the state ADU or JADU law or with this Chapter 17.44.

2. Exceptions:

   a. Notwithstanding subsection (B)(1) above the city may deny a permit to legalize an existing but unpermitted ADU or JADU that was constructed before January 1, 2020, if the city makes a finding that correcting a violation

is necessary to comply with the standards specified in California Health and Safety Code Section 17920.3.

b. Subsection (B)(1) above does not apply to a building that is deemed to be substandard in accordance with California Health and Safety Code Section 17920.3.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
651 Bannon Street, Suite 400 Sacramento, CA 95811
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

November 13, 2024

Salvador Lopez, Jr.
Interim Assistant Planning Director
City of Malibu
23825 Stuart Ranch Road
Malibu, California 90265-4861

Dear Salvador Lopez, Jr:

RE: Review of Malibu's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, §§ 6631 - 66342)

Please Note: As of March 25, 2024, with the Chaptering of Senate Bill (SB) 477 (Chapter 7, Statutes of 2024), the sections of Government Code relevant to State ADU and junior accessory dwelling unit (JADU) Law have been re-numbered (Enclosure 1).

Thank you for submitting the City of Malibu (City) ADU Ordinance No. 511 (Ordinance), adopted January 8, 2024, to the California Department of Housing and Community Development (HCD). The Ordinance was received on February 1, 2024. HCD has reviewed the Ordinance and submits these written findings pursuant to Government Code section 66326, subdivision (a). HCD finds that the Ordinance does not comply with State ADU and junior accessory dwelling unit (JADU) Laws in the manner noted below. Pursuant to Government Code section 66326, subdivision (b)(1), the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than December 13, 2024.

The Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law in the following respects:

1. *Statutory Numbering* – The Ordinance contains several references to code sections that were deleted by SB 477, effective March 25, 2024. These include Government Code sections 65852.2, 65852.22 and 65852.26. The contents of these sections were relocated to Government Code, Title 7, Division 1, Chapter 13 (sections 66310-66342, see Enclosure). The City must amend the Ordinance to refer to the correct code sections.

2. Section 17.44.050(C) – *Ingress and Egress* – The Ordinance states, "Areas with Adequate Ingress and Egress. Since the entire City is located within [sic] a designated "Very High Fire Hazard Severity Zone," (VHFHSZ) consistent with Los

Attachment 4

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."

However, Government Code section 66314, subdivision (a) states that an ordinance shall "Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based… on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety." The ordinance does not designate the specific areas where ADUs are prohibited in accordance with Government Code section 66314, subdivision (a). Additionally, Government Code section 66315 states, "Section 66314 establishes the maximum standards that a local agency shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in Section 66314, shall be used or imposed…" The City of Malibu's adopted Fire Code is the 2022 California Fire Code (CFC), not The Los Angeles County Fire Code, as mentioned. These additional standards on single-family ADU development imposed by other policies or regulations are not compliant with State ADU Law.

Further, while the California Department of Forestry and Fire Protection (CALFIRE) maps establish the VHFHSZ boundaries, the purpose of these maps is not to limit the locations where ADUs or other dwellings may be permitted. Rather, the CALFIRE maps identify areas in which hazard mitigating building design standards will apply. The City may not restrict ADUs pursuant to Government Code section 66314 et seq. while simultaneously allowing, through its building and zoning codes, other new residential development, and therefore, the City must remove this requirement.

Section 17.44.050(D) – *Multifamily ADUs* – The Ordinance states, "New attached ADUs are not allowed" on multifamily lots. However, Government Code section 66314, subdivision (d)(3) states "A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall… Require the accessory dwelling units to comply with all of the following:

The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling, including detached garages."

ADUs may be attached, converted from existing space, or detached from both single-family and multifamily dwellings. Prohibiting the construction of ADUs

attached to multifamily dwellings would not be compliant with State ADU Law. Therefore, the City must remove this provision.

3. Section 17.44.060 – *Approvals* – The Ordinance states, "Because the City of Malibu lies entirely within the Coastal Zone, every ADU application in the City is subject to an analysis for compliance with the Local Coastal Program (LCP) and Coastal Act before it is reviewed for compliance with this Chapter. If an application for an ADU is not subject to the LCP, then this Chapter governs." While it is true that Government Code section 66329 states that State ADU Law shall not be "…construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976…" the City must review all ADU applications for any provisions or attributes which are not addressed within the LCP in compliance with State ADU Law. Only applying the provisions of the LCP to ADU applications is not in compliance with State ADU Law. Therefore, the City must amend this section to clarify that the provisions within State ADU Law are applicable to an application wherever those provisions are not directly in conflict with the provisions of an approved LCP.

4. Section 17.44.070 (B)(2) – *Action on Application* – The Ordinance states, "When an application to create an ADU or JADU is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the city may delay acting on the permit application for the ADU or JADU until the city acts on the permit application to create the new single-family or multifamily dwelling…" However, Government Code section 66317, subdivision (a) states, "If the permit application to create or serve an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, the permitting agency may delay approving or denying the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency approves or denies the permit application to create the new single-family or multifamily dwelling, but the application to create or serve the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing." As of January 1, 2023, this provision was amended to clarify that a local agency must "approve or deny" an application within the 60-day timeframe, rather than simply "act" on it. Therefore, the City should amend this section to reflect the requirement to "approve or deny" an application in accordance with State ADU Law.

5. Section 17.44.080 (F)(1) – *Separate Sale* – The Ordinance states, "Except as otherwise provided in Government Code Section 65852,26, the ADU or JADU may not be sold separately from the primary dwelling." However, Government Code section 66341, (formerly Government Code section 65852.26), does not include any provisions for the separate sale of JADUs. JADUs may not be sold separately from the primary structure under State ADU Law. Therefore, the City should clarify that there are no circumstances within State ADU Law which allow for the separate sale of a JADU.

6. Section 17.44.080 (F)(2), (4), (5), and (7) – *Deed Restrictions* – The Ordinance states, "Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property…" and lists several restrictions which are not in compliance with State ADU Law. Those not in compliance include:

   "2. The ADU or JADU must remain an ADU unless City approval is obtained to convert the structure to a different accessory structure.

   4. The ADU or JADU is restricted to the approved size.

   5. The JADU must be reconverted to be part of the primary residence if the owner does not reside on the property.

   7. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code."

   However, no deed restrictions, other than for those items explicitly mentioned within Articles 2, 3, and 4 of Chapter 13, Division 1, Title 7 of the Government Code may be applied to ADUs or JADUs. Government Code section 66333, subdivision (b), removes the owner-occupancy requirement for JADUs when the owner is a governmental agency, land trust, or housing organization. JADU deed restrictions may include a maximum size of 500 square feet for a JADU, among other restrictions on attributes which conform to article 3, pursuant to Government Code section 66333, subdivision (c). Therefore, the City must remove these excessive deed restriction requirements.

7. Section 17.44.080 (I) – *Height* – The Ordinance states, "No ADU subject to this Chapter may exceed 16 feet in height above grade, as measured from existing or finished legal grade, whichever results in the lower building height…" However, section 202 of the 2022 California Building Code (CBC) defines 'Height, Building' as "The vertical distance from grade plane to the average height of the highest roof surface." Additionally, the City of Malibu Municipal Code does not amend this definition pursuant to section 1.8.6 of the CBC and may not erroneously apply it exclusively to the construction of ADUs. Therefore, the City must amend this section to reflect a definition of "height" that is consistent with the CBC.

8. Section 17.44.090 (A)(1) – *Ceiling Height* – The Ordinance states, "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." However, section 1208.2 of the CBC states "Occupiable spaces, habitable spaces and corridors shall have a ceiling height of not less than 7 feet 6 inches above the finished floor. Bathrooms, toilet rooms, kitchens, storage rooms and laundry rooms shall have a ceiling height of not less than 7 feet above the finished floor."

Additionally, Section R305.1 of the 2022 California Residential Code (CRC), which applies to one- and two-family dwellings, states, "Habitable space, hallways and portions of basements containing these spaces shall have a ceiling height of not less than 7 feet. Bathrooms, toilet rooms and laundry rooms shall have a ceiling height of not less than 6 feet 8 inches." The City of Malibu Municipal Code does not include amendments to these provisions pursuant to section 1.8.6 of the CBC and may not erroneously apply it exclusively to the construction of ADUs. Therefore, the City must amend this section to reflect a size calculation that is consistent with the CBC/CRC.

9. Section 17.44.090 (A)(2), (A)(3) – *Size, Attached* – The Ordinance states, "An ADU that is attached to the primary dwelling is limited to 50 percent of the existing primary dwelling …. Application of other development standards in this Section 17.44.090 might further the [sic] 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." However, Government Code section 66321, subdivision (b)(3) states, "a local agency shall not establish by ordinance… Any requirement for a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards." An attached ADU may be 800 square feet in size regardless of the size of the primary unit, as long as it remains compliant with other objective development standards other than those listed. Restricting the size of attached ADUs to less than 800 square feet directly conflicts with Government Code section 66321, subdivision (b)(3). Therefore, the City must amend this section to reflect the 800 square foot exemption.

10. Section 17.44.090 (D)(2) – *Parking Exceptions* – The Ordinance states, "No parking under subsection (E)(1)[sic] above is required in the following situations…" However, there is no subsection (E)(1) to reference. The general parking standards appear to be subsection (D)(1). Therefore, the City should amend this section to correct the reference.

Please note that the City has two options in response to this letter.[1] The City can either amend the Ordinance to comply with State ADU Law[2] or adopt the Ordinance without changes and include findings in its resolution adopting the Ordinance that explain the reasons the City believes that the Ordinance complies with State ADU Law despite HCD's findings.[3] If the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD must notify the City and may notify the California Office of the Attorney General that the City is in violation of State ADU Law.[4]

HCD appreciates the City's efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU and JADU Law. Please feel free to contact Tyler Galli, of our staff, at (916) 776-7613 or at Tyler.Galli@hcd.ca.gov.

Sincerely,

Jamie Candelaria

Jamie Candelaria
Senior Housing Accountability Manager
Housing Policy Development Division

Enclosure

[1] Gov. Code, § 66326, subd. (c)(1).
[2] Gov. Code, § 66326, subd. (b)(2)(A).
[3] Gov. Code, § 66326, subd. (b)(2)(B).
[4] Gov. Code, § 66326, subd. (c)(1).

State ADU/JADU Law Statutory Conversion Table

New Government Code Sections	Previous Government Code Sections
Article 1. General Provisions	
66310	65852.150 (a)
66311	65852.150 (b)
66312	65852.150 (c)
66313	General Definition Section 65852.2 (j) 65852.22 (j)
Article 2. Accessory Dwelling Unit Approvals	
66314	65852.2(a)(1)(A), (D)(i)-(xii), (a)(4)-(5)
66315	65852.2 (a)(8)
66316	65852.2 (a)(6)
66317	65852.2 (a)(3), (a)(7)
66318	65852.2 (a)(9), 65852.2 (a)(2)
66319	65852.2 (a)(10)
66320	65852.2 (b)
66321	65852.2 (c)
66322	65852.2 (d)
66323	65852.2 (e)
66324	65852.2 (f)
66325	65852.2 (g)
66326	65852.2 (h)
66327	65852.2 (i)
66328	65852.2 (k)
66329	65852.2 (l)
66330	65852.2 (m)
66331	65852.2 (n)
66332	65852.23.
Article 3. Junior Accessory Dwelling Units	
66333	65852.22 (a)
66334	65852.22 (b)
66335	65852.22 (c)
66336	65852.22 (d)
66337	65852.22 (e)
66338	65852.22 (f)-(g)
66339	65852.22 (h)
Article 4. Accessory Dwelling Unit Sales	
66340	65852.26 (b)
66341	65852.26 (a)
66342	65852.2 (a)(10)

Summary of ADU State Law Changes

The following summarizes recent State laws governing accessory dwelling units that require amendments to MMC Chapter 17.44 to maintain consistency with State law.

AB 462 – Coastal Development Permits; Disaster-Affected Areas

Existing law requires many ADUs proposed in the Coastal Zone to obtain a Coastal Development Permit (CDP) in addition to other local ADU permit requirements. Historically, the CDP for an ADU was not subject to state ADU law's 60-day shot clock to approve or deny a complete ADU application. Additionally, local permitting decisions on a CDP for an ADU could be appealed to the California Coastal Commission if the underlying property was subject to the Coastal Commission's appeals jurisdiction (as set forth in Public Resources Code 30603).

AB 462 alters the status quo on numerous fronts. Most notably, local agencies with a certified local coastal program (LCP) must now approve or deny a CDP application for an ADU within 60 days of receiving a complete application. The local agency's review of the CDP application must also take place "concurrently with the process to approve or deny" any other permit required to approve the ADU (i.e., an ADU permit and building permit). (Gov. Code, § 66329(a).) AB 462 also eliminates the ability to appeal a CDP for an ADU to the Coastal Commission. If a local agency does not have a certified LCP, then it now must "immediately notify" the Coastal Commission when an ADU application is submitted. Subject to limited exceptions, the Coastal Commission's review of the CDP application is subject to the same 60-day shot clock that applies to local agencies with a certified LCP. (Id., at (b)(1)-(5).)

Beyond changes to CDP processing, AB 462 modifies the rules governing the issuance of a certificate of occupancy (CofO) for an ADU. Historically, state law has prohibited a local agency from issuing a CofO for an ADU before one is issued for the primary dwelling (i.e., the primary dwelling must have a CofO before the ADU can receive one).

AB 462 creates a narrow exception to this prohibition for detached ADUs when all of the following conditions are satisfied: (1) the Governor has declared a state of emergency for the county on or after February 1, 2025; (2) the primary dwelling was substantially damaged or destroyed by an event referenced in the state of emergency proclamation; and (3) the ADU has been issued construction permits and passed all required inspections. (Gov. Code, § 66328(b).) If these conditions are satisfied, the detached ADU can receive a CofO before the primary dwelling. In all other scenarios, the primary dwelling still needs a CofO before one can be issued for an ADU.

AB 462 was enacted as an urgency measure that took effect immediately when signed by the Governor (on October 10, 2025).

AB 1154, SB 9 (2025), and SB 543 were enacted as non-urgency measures and take effect on January 1, 2026.

AB 1154 – JADU Owner-Occupancy; Short-Term Rental

When a JADU is developed, existing state law requires a property owner to reside in the JADU or remaining portion of the single-family dwelling. AB 1154 narrows this requirement to now only apply when a JADU shares sanitation facilities (bathroom) with the single-family dwelling. If the JADU has its own bathroom, then the property owner does not have to reside on the property at all. (See amended Gov. Code, § 66333(b).)

AB 1154 also expressly prohibits JADUs from being used as short-term rentals (i.e., rented for a term shorter than 30 days). (See amended Gov. Code, § 66333(g).) Most ADU ordinances already included this prohibition (as well as prohibiting ADUs from being used as short-term rentals). But now it's required by state law.

SB 9; SB 543 – Ordinance Submittal to HCD; Approval

Under existing law, local agencies are required to submit a copy of their ADU ordinance to the California Department of Housing and Community Development (HCD) within 60 days of adoption.

This year's SB 9[1] and SB 543 create a penalty for failing to do so by rendering null and void any local ordinance that is not submitted to HCD within 60 days of adoption. (See amended Gov. Code, § 66326(d); new Gov. Code, § 66333.5(d).) The bills further specify that a local ADU ordinance is null and void if HCD issues findings that the ordinance does not comply with state law and the local agency fails to respond to HCD within 30 days. (*Id*.)

SB 543 – ADU Size; Number of ADUs; Impact Fees; Application Timeline

SB 543 makes numerous changes and clarifications to state ADU law, the most notable of which are summarized below.

ADU & JADU Size

Existing law limits the maximum size of a JADU to 500 square feet and prohibits local ADU ordinances from imposing certain development standards that would prevent an ADU created under Government Code section 66314 through 66322 from being at least 800 square feet.

[1] Not to be confused with the SB 9 of 2021 (Stats. 2021, Ch. 162) regarding urban lot splits and second primary dwelling units.

SB 543 amends state ADU law to specify that allowable square footage of an ADU or JADU refers to square footage of "interior livable space." (See amended Gov. Code, § 66313(d), 66321(b)(2).)

Impact Fees

Existing law exempts ADUS that are 750 square feet or smaller from development impacts fees (DIFs).

SB 543 clarifies that DIFs may not be imposed on an ADU that has 750 or fewer square feet of *interior* livable space or on a JADU with 500 or fewer square feet of interior livable space.

The bill also exempts an ADU or JADU with less than 500 square feet of interior livable space from school impact fees. (See amended Gov. Code, § 66311.5.)

Quantity of ADUs Created Under Government Code Section 66323

Existing state law creates four categories of ADUs that must be approved if they comply with the limited standards provided in Government Code section 66323(a)(1)–(4). These are:

(1) a converted ADU and JADU created on a lot with a proposed or existing single-family dwelling (Gov. Code, § 66323(a)(1));

(2) a detached ADU created on a lot with a proposed or existing single-family dwelling (Gov. Code, § 66323(a)(2));

(3) converted ADUs created in an existing multifamily dwelling (Gov. Code, § 66323(a)(3)); and

(4) detached ADUs created on a lot with a proposed or existing multifamily dwelling.

For some time, there has been uncertainty as to whether ADUs created under Government Code section 66323 could be combined. Some practitioners interpreted the statute to not require local agencies to allow combinations. Initially, HCD took the same position, in its 2020 ADU Handbook. But for the last few years, HCD has taken the opposite position: that yes, combinations are permitted. (See HCD January 2025 ADU Handbook, at p. 19 ["[P]ursuant to Government Code section 66323, subdivision (a), local governments must allow units created pursuant to subparagraphs (1) and (2) together or (3) and (4) together"].)

SB 543 codifies HCD's most recent interpretation by amending Government Code section 66323 to specifically allow combinations. Thus, a lot with a multifamily dwelling can now

have a converted ADU or ADUs created under section 66323(a)(3) *and* detached ADUs created under section 66323(a)(4). And a lot with a single family dwelling can now have a converted ADU and a JADU created under section 66323(a)(1) *and* a detached ADU created under section 66323(a)(2).

ADU Permitting Process

Existing law has long required local agencies to approve or deny an ADU application within 60 days of receiving a complete application. However, state law was silent with respect to incompleteness determinations, subsequent resubmittals, and appealing local decisions on ADU applications.

SB 543 requires local agencies to now:

(1) determine whether an ADU application is complete within 15 business days of submittal;

(2) if the application is if incomplete, within the same 15 days provide the applicant with a list of incomplete items and how to address them;

(3) review a resubmitted application for completeness within 15 business days;

(4) provide the applicant with a written appeal process for any incompleteness determination or denial (to the Planning Commission or City Council, or both); and

(5) provide a final written determination on the appeal within 60 business days of receiving the appeal). (See amended Gov. Code, §§ 66317 [ADUs], 66335 [JADUs].)

SB 1211 – Ministerial Approval

Before SB 1211, state law prohibited cities from requiring off-street parking spaces to be replaced when a garage, carport, or covered parking structure is demolished with the construction of, or conversion to, an ADU. SB 1211 amended this prohibition to also bar cities from requiring replacement parking when an uncovered parking space is demolished for or replaced with an ADU.

For some time, state law has required cities to ministerially approve qualifying building permit applications for ADUs within portions of existing multifamily dwelling structures that are not used as livable space. The term "livable space" was not defined by state ADU law. SB 1211 changed this by adding a new definition stating "'livable space' means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation."

SB 1211 also increased the number of detached ADUs that lots with an existing multifamily dwelling can have. Previously, lots with an existing or proposed multifamily dwelling could have up to two detached ADUs. Following SB 1211, lots with an existing multifamily dwelling can have

up to eight detached ADUs or as many detached ADUs as there are primary dwelling units on the lot, whichever is less. SB 1211 did not alter the number of ADUs that lots with proposed multifamily dwellings can have — they remain limited to two detached ADUs.

NOTICE OF PUBLIC HEARING
CITY OF MALIBU
CITY COUNCIL

The Malibu City Council will hold a public hearing on **MONDAY, June 8, 2026, at 5:30 p.m. in the Council Chambers, Malibu City Hall**, **23825 Stuart Ranch Road, Malibu, CA**.

Public comment can be submitted ahead of the public hearing to citycouncil@malibucity.org for inclusion in the public record. To participate during the public hearing, please review the meeting agenda posted at MalibuCity.org/AgendaCenter and follow the directions for public participation.

ACCESSORY DWELLING UNIT ORDINANCE

Zoning Text Amendment No. 25-003 – Consider the proposed amendment and the Planning Commission's recommendation incorporating new state law and clarifications to Title 17 (Zoning) of the Malibu Municipal Code (MMC) to update regulations related to Accessory Dwelling Units

The proposed ordinance was previously reviewed by the Planning Commission on August 18, 2025, January 20, 2026, and April 20, 2026, during which the Commission provided recommendations to the City Council. The proposed ordinance implements recommendations provided by the California Department of Housing and Community Development (HCD), updates to MMC Chapter 17.44 reflecting the latest State ADU/Junior ADU statutes, and adds a local provision related to reduced setbacks for fire rebuild ADUs located on beachfront parcels.

Location:	Citywide Project
Case Planner:	Patrick Achis, AICP, Senior Planner (310) 456-2489, extension 247 pachis@malibucity.org

The proposed ordinance is Statutorily Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which state that CEQA does not apply to the adoption of local ordinances regulating the construction of second units in single-family and multifamily residential zones. Furthermore, the Planning Commission has analyzed the proposed amendments. CEQA applies only to projects that 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 Commission determined that the proposed amendments are required by state law and will not have a significant effect on the environment.

A written staff report will be available before the hearing 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. Oral and written comments may be presented to the City Council on, or before the date of the meeting.

If there are any questions regarding this notice, please contact Patrick Achis, Senior Planner, at (310) 456-2489, ext. 247. Copies of all related documents can be reviewed by any interested person at City Hall during regular business hours. Oral and written comments may be presented to the City Council on, or before, the date of the meeting.

For more information, view the City's Accessory Dwelling Units website at www.malibucity.org/adu.

IF YOU CHALLENGE THE CITY'S ACTION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES RAISED AT THE PUBLIC HEARING 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 HEARING.

Yolanda Bundy, Community Development Director

Publish Date: May 14, 2026