



# Council Agenda Report

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

Prepared by: Patricia Salazar, Development and Operations Manager

Reviewed by: Richard Mollica, Planning Director

Approved by: Steve McClary, City Manager

Date prepared: October 25, 2023 Meeting date: November 13, 2023

Subject: Woolsey Fire Fee Waiver Program

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**RECOMMENDED ACTION:** Adopt Resolution No. 23-50 superseding and replacing Resolution No. 23-40, directing the City Manager to waive certain fees related to the rebuilding of structures that were damaged or destroyed by the Woolsey Fire on a property used as a primary residence, and finding the action to be exempt from the California Environmental Quality Act.

**FISCAL IMPACT:** There is no fiscal impact associated with the recommended action. To date, the City has waived or refunded approximately \$5.22 million in fees associated with the Woolsey Fire. The Adopted Budget for FY 2023-24 includes sufficient funding to assist all remaining Woolsey Fire property owners and is not reliant on revenue from permit fees.

**STRATEGIC PRIORITY:** This item is part of the day-to-day operations identified in the Adopted FY 2023-24 Strategic Priority Project List.

**DISCUSSION:** The purpose of this agenda report is to memorialize the City Council's direction at its September 25, 2023 meeting, to make the Woolsey Fire Fee Waiver program transferable to heirs of previously qualified property owners, consistent with existing City practice.

At its September 25, 2023 meeting, the City Council adopted Resolution No. 23-40 extending the Woolsey Fire fee waiver program deadlines by three years. In addition, the City Council directed staff to ensure that heirs of previously qualified property owners were eligible for the fee waiver program. As such, the Council directed staff that if this provision did not exist in the adopted resolution to come back with a resolution memorializing its direction.

To implement this new provision, two options are provided to the Council. One is a simple addition to Section 2, Subsection 5 of the resolution to make it clear that the fee waiver program is transferable to heirs. The second option takes into consideration that many property titles in Malibu are complex, which may make implementing the new provision difficult.

#### Option 1

This option adds heirs to Section 2, Subsection 5 of the resolution. Amendments to the resolution are in underlined/strikethrough format below.

##### Section 2, Subsection 5

(5) fee waivers are not transferable, except for heirs of previously qualified property owners.

##### Section 2, add Subsection 6

(6) If a waiver is obtained, a Certificate of Occupancy will only be issued to the property owner, or grantee as described in Subsection (5) above, who filed the affidavit establishing primary residence at the time of the Woolsey Fire with the City. All fees that were waived must be paid to the City before a Certificate of Occupancy will be issued to an owner other than the one listed on the fee waiver.

#### Option 2

Staff reviewed instances where the fee waiver program eligibility was transferred to another party, typically an heir, and determined that transfers pursuant to California Revenue and Taxation Code Sections 62 and 63 may meet the intent of the Council. A copy of California Revenue and Taxation Code Sections 62 and 63 is included as Attachment 2. These sections list change of ownership or title transfer scenarios that do not require a property reassessment. The inclusion of the California Revenue and Taxation Code would provide clear criteria for staff and members of the public to apply this new provision. To implement this provision, when a request is made to transfer the eligibility of the fee waiver program, staff will review the Los Angeles Tax Assessor property data, (which is provided on a quarterly basis) and verify that the type of title change/transfer meets the criteria. Fortunately, the data provided by the County includes a title transfer legend which will assist staff in making the determination.

Amendments to the resolution which are in underline/strikethrough format below.

Section 2, Subsection 5

(5) fee waivers are not transferable, except for changes of ownership or transfers of title excluded from reassessment pursuant to the California State Revenue and Taxation Code Sections 62 and 63, including but not limited to transfers between husband and wife, parent-child, grandparent-grandchild, intrafamily, registered domestic partners, co-tenants, co-owners, an individual or individuals and a legal entity or between legal entities, creation, assignment, termination, or reconveyance of a lender's security interest in real property or any transfer required for financing purposes only (for example, co-signor), perfecting the title (name change only), and substitution of a trustee.

Section 2, add Subsection 6 (and renumber subsequent subsections)

(6) If a waiver is obtained, a Certificate of Occupancy will only be issued to the property owner, or grantee as described in Subsection (5) above, who filed the affidavit establishing primary residence at the time of the Woolsey Fire with the City. All fees that were waived must be paid to the City before a Certificate of Occupancy will be issued to an owner other than the one listed on the fee waiver.

SUMMARY: A resolution with Option 1 amendments is attached for the Council's consideration.

ATTACHMENTS:

1. Resolution No. 23-50
2. California State Revenue and Taxation Code Sections 62 and 63

RESOLUTION NO. 23-50

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU SUPERSEDING AND REPLACING RESOLUTION NO. 23-40; DIRECTING THE CITY MANAGER TO WAIVE CERTAIN FEES RELATED TO THE REBUILDING OF STRUCTURES THAT WERE DAMAGED OR DESTROYED BY THE WOOLSEY FIRE ON A PROPERTY USED AS A PRIMARY RESIDENCE; AND FINDING THE ACTION TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

SECTION 1. Recitals.

- A. The 2018 Woolsey Fire destroyed at least 488 single-family homes in Malibu.
- B. In the public interest of encouraging the rebuilding of homes in the City that were lost in the Woolsey Fire, the City desires to waive certain planning and building permit fees related to therebuilding structures that were damaged or destroyed by the Woolsey Fire.
- C. The waiving of fees will only be applicable to owners of properties that are being rebuilt as a like-for-like or like-for-like plus 10% rebuild and were used as a primary residence bysuch owners as of November 8, 2018.
- D. Property owners requesting a waiver of fees must demonstrate primary residency with an active voter registration, a valid driver's license or other government-issued identification cardwith the address of the property that was destroyed by the Woolsey Fire acceptable to the City Manager and file an affidavit with the City on the form specified by the City Manager.
- E. Building permits eligible for fee waiver shall include grading, foundation, building,plumbing, mechanical, electrical and Onsite Wastewater Treatment System (OWTS) permits.
- F. The City cannot waive permit fees required by other agencies including, but not limited to, the County of Los Angeles and the State of California.
- G. On June 24, 2019, the City Council adopted Resolution No. 19-30 authorizing the waiving of fees from November 8, 2018 through June 30, 2020.
- H. On February 24, 2020, the City Council adopted Resolution No. 20-10 authorizingthe waiving of certain fees from November 8, 2018 through December 30, 2020.
- I. On June 22, 2020, the City Council adopted Resolution No. 20-32 authorizing the waiving of certain fees from November 8, 2018 through June 30, 2021.

J. On March 22, 2021, the City Council adopted Resolution No. 21-10 authorizing the waiving of certain fees from November 8, 2018 through June 30, 2022.

K. On November 8, 2021, the City Council adopted Resolution No. 21-62, authorizing the waiving of certain fees from November 8, 2018 through December 30, 2023.

L. On September 11, 2023, the City Council directed staff to modify and replace Resolution No. 21-62, extending the deadlines by three years, from November 8, 2018 through December 30, 2026, to coincide with Assembly Bill 1500, which amends the Revenue and Taxation Code (RTC) section 70.5 to allow property owners an additional three years to reconstruct improvements on the property substantially damaged or destroyed by the 2018 Woolsey Fire and the 2018 Camp Fire.

M. On September 25, 2023, the City Council adopted Resolution No. 23-40, authorizing the waiving of certain fees from November 8, 2018 through December 30, 2026. In addition, the City Council directed staff to ensure that heirs of previously qualified property owners, were eligible for the fee waiver program. As such, the Council directed staff that if this provision did not exist in the adopted resolution to come back with a resolution memorializing its direction.

N. The City Council now desires to modify and replace Resolution No. 23-40 as herein described.

## SECTION 2. Action

The recitals above are adopted and, based thereon, the City Council directs the City Manager to waive the necessary planning and building permit fees for projects rebuilding a like-for-like or like-for like plus 10% structures that were damaged or destroyed by the Woolsey Fire where the property owner demonstrates to the satisfaction of the City Manager that the property was used as the primary residence by the property owner on November 8, 2018, subject to the following requirements and limitations:

- (1) an application for waiver is received by June 30, 2026.
- (2) all required Planning Department applications for the project are deemed complete by June 30, 2026.
- (3) all required building permits are pulled by December 30, 2026 (fees will have to be paid for any building permit pulled after December 30, 2026, before it will be issued.
- (4) all fees associated with post-approval revisions to the project's Planning Department approval or building permit issuance will be charged in accordance the City's Adopted Fee Schedule.
- (5) fee waivers are not transferable, except for heirs of previously qualified property owners.
- (6) If a waiver is obtained, a Certificate of Occupancy will only be issued to the property

owner who filed the affidavit establishing primary residence at the time of the Woolsey Fire with the City. All fees that were waived must be paid to the City before a Certificate of Occupancy will be issued to an owner other than the one listed on the fee waiver.

This resolution supersedes and replaces Resolution 23-40.

SECTION 3. Environmental Review.

The Council finds that the adoption and implementation of this resolution is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment, section 15064(e) which exempts purely economic regulations, and Public Resources Code Section 21080(b)(4) regarding actions to mitigate or prevent an emergency.

SECTION 4. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 13<sup>th</sup> of November 2023.

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STEVE UHRING, Mayor

ATTEST:

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KELSEY PETTIJOHN, City Clerk  
(seal)

APPROVED AS TO FORM:

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

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TREVOR RUSIN, City Attorney

# California Code, Revenue and Taxation Code - RTC § 62

Current as of January 01, 2023 |

Change in ownership shall not include:

(a)(1) Any transfer between coowners that results in a change in the method of holding title to the real property transferred without changing the proportional interests of the coowners in that real property, such as a partition of a tenancy in common.

(2) Any transfer between an individual or individuals and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, or a trust to a cotenancy, that results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer. The provisions of this paragraph shall not apply to transfers also excluded from change in ownership under the provisions of subdivision (b) of Section 64.

(b) Any transfer for the purpose of perfecting title to the property.

(c)(1) The creation, assignment, termination, or reconveyance of a security interest; or  
(2) the substitution of a trustee under a security instrument.

(d) Any transfer by the trustor, or by the trustor's spouse or registered domestic partner, or by both, into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life. However, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after the creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979-80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than manufactured homes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing

with Section 5800) and floating homes subject to taxation pursuant to Section 229, that are on leased land have a renewal option of at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement.

(h) Any purchase, redemption, or other transfer of the shares or units of participation of a group trust, common trust fund, pooled fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative that was financed under one mortgage, provided that mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or that housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of that person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975, to March 1, 1981, between coowners in any property that was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the period of the coownership, notwithstanding any other provision of this chapter. Any transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of that revaluation with respect to the 1980-81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980-81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of these corporations, or any combination thereof (including any transfer from one entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(l) Any transfer, that would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties, provided that the original relationship between the grantor and grantee is not changed.

(m) Any intrafamily transfer of an eligible dwelling unit from a parent or parents or legal guardian or guardians to a minor child or children or between or among minor siblings as a result of a court order or judicial decree due to the death of the parent or parents. As used in this subdivision, "eligible dwelling unit" means the dwelling unit that was the

principal place of residence of the minor child or children prior to the transfer and remains the principal place of residence of the minor child or children after the transfer.

(n) Any transfer of an eligible dwelling unit, whether by will, devise, or inheritance, from a parent or parents to a child or children, or from a guardian or guardians to a ward or wards, if the child, children, ward, or wards have been disabled, as provided in subdivision (d) of Section 12304 of the Welfare and Institutions Code, for at least five years preceding the transfer and if the child, children, ward, or wards have adjusted gross income that, when combined with the adjusted gross income of a spouse or spouses, parent or parents, and child or children, does not exceed twenty thousand dollars (\$20,000) in the year in which the transfer occurs. As used in this subdivision, "child" or "ward" includes a minor or an adult. As used in this subdivision, "eligible dwelling unit" means the dwelling unit that was the principal place of residence of the child or children, or ward or wards for at least five years preceding the transfer and remains the principal place of residence of the child or children, or ward or wards after the transfer. Any transferee whose property was reassessed in contravention of this subdivision for the 1984-85 assessment year shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than 30 days after the later of either the transferee's receipt of notice of reassessment pursuant to Section 75.31 or the end of the 1984-85 fiscal year.

(o) Any transfer of a possessory interest in tax-exempt real property subject to a sublease with a remaining term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewal options.

(p)(1) Commencing on January 1, 2000, any transfer between registered domestic partners, as defined in Section 297 of the Family Code, including, but not limited to:

(A) Transfers to a trustee for the beneficial use of a registered domestic partner, or the surviving registered domestic partner of a deceased transferor, or by a trustee of such a trust to the registered domestic partner of the trustor.

(B) Transfers that take effect upon the death of a registered domestic partner.

(C) Transfers to a registered domestic partner or former registered domestic partner in connection with a property settlement agreement or decree of dissolution of a registered domestic partnership or legal separation.

(D) The creation, transfer, or termination, solely between registered domestic partners, of any coowner's interest.

(E) The distribution of a legal entity's property to a registered domestic partner or former registered domestic partner in exchange for the interest of the registered domestic partner in the legal entity in connection with a property settlement agreement or a decree of dissolution of a registered domestic partnership or legal separation.

(2) Any transferee whose property was reassessed in contravention of the provisions of this subdivision for a transfer occurring between January 1, 2000, and January 1, 2006, shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than June 30, 2009. A county may charge a fee for its costs related to the application and reassessment reversal in an amount that does not exceed the actual costs incurred. This paragraph shall be liberally construed to provide the benefits of this subdivision and Article XIII A of the California Constitution to registered domestic partners.

(A) After consultation with the California Assessors' Association, the State Board of Equalization shall prescribe the form for claiming the reassessment reversal described in paragraph (2). The claim form shall be entitled "Claim for Reassessment Reversal for Registered Domestic Partners." The claim shall state on its face that a "certificate of registered domestic partnership" is available upon request from the California Secretary of State.

(B) The information on the claim shall include a description of the property, the parties to the transfer of interest in the property, the date of the transfer of interest in the property, and a statement that the transferee registered domestic partner and the transferor registered domestic partner were, on the date of transfer, in a registered domestic partnership as defined in Section 297 of the Family Code.

(C) The claimant shall declare that the information provided on the form is true, correct, and complete to the best of the claimant's knowledge and belief.

(D) The claimant shall provide with the completed claim the "Certificate of Registered Domestic Partnership," or photocopy thereof, naming the transferee and transferor as registered domestic partners and reflecting the creation of the registered domestic partnership on a date prior to, or concurrent with, the date of the transfer for which a reassessment reversal is requested.

(E) Any reassessment reversal granted pursuant to a claim shall apply commencing with the lien date of the assessment year, as defined in Section 118, in which the claim is filed. No refunds shall be made under this paragraph for any prior assessment year.

(F) Under any reassessment reversal granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph (E) shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (E) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property.

(q)(1) Any transfer of property occurring on or after January 1, 2000, to June 26, 2015, inclusive, between local registered domestic partners, including, but not limited to:

(A) Transfers to a trustee for the beneficial use of a local registered domestic partner, or the surviving local registered domestic partner of a deceased transferor, or by a trustee of such a trust to the local registered domestic partner of the trustor.

(B) Transfers that take effect upon the death of a local registered domestic partner.

(C) Transfers to a local registered domestic partner or former local registered domestic partner in connection with a property settlement agreement or decree of dissolution of a local registered domestic partnership or legal separation.

(D) The creation, transfer, or termination, solely between local registered domestic partners, of any coowner's interest.

(E) The distribution of a legal entity's property to a local registered domestic partner or former local registered domestic partner in exchange for the interest of the local registered domestic partner in the legal entity in connection with a property settlement agreement or a decree of dissolution of a local registered domestic partnership or legal separation.

(2) Any transferee whose property was reassessed in contravention of this subdivision shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than June 30, 2022. A county may charge a fee for its costs related to the application and reassessment reversal in an amount that does not exceed the actual costs incurred. This paragraph shall be liberally construed to provide the benefits of this subdivision and Article XIII A of the California Constitution to local registered domestic partners.

(A) After consultation with the California Assessors' Association, the State Board of Equalization shall prescribe the form for claiming the reassessment reversal described in paragraph (2). The claim form shall be entitled "Claim for Reassessment Reversal for Local Registered Domestic Partners."

(B) The information on the claim shall include a description of the property, the parties to the transfer of interest in the property, the date of the transfer of interest in the property, and a statement that the transferee local registered domestic partner and the transferor local registered domestic partner were, on the date of transfer, in a local registered domestic partnership as defined by paragraph (3).

- (C) The claimant shall declare that the information provided on the form is true, correct, and complete to the best of their knowledge and belief.
- (D) The claimant shall provide with the completed claim documentation naming the transferee and transferor as local registered domestic partners and reflecting the creation of the local registered domestic partnership on a date prior to, or concurrent with, the date of the transfer for which a reassessment reversal is requested.
- (E) Any reassessment reversal granted pursuant to a claim shall apply commencing with the lien date of the assessment year, as defined in Section 118, in which the claim is filed. No refunds shall be made under this paragraph for any prior assessment year.
- (F) Under any reassessment reversal granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph (E) shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (E) for both of the following:
- (i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.
  - (ii) Any subsequent new construction occurring with respect to the subject real property.
- (3) For purposes of this subdivision, "local registered domestic partner" means a registered domestic partnership established by a city, county, city and county, or special district in which both of the following conditions are met:
- (A) The registrants were of the same sex at the time of registration.
  - (B) The registrants were not in a registered domestic partnership with, or married to, any other person at the time of the transfer.
- (r)(1) Any parent to child transfer of stock in a qualified corporation that results in a change in ownership of a qualified property owned by the qualified corporation, provided that the transfer of stock is due to the death of a parent or parents.
- (2) The assessor shall report quarterly to the State Board of Equalization all transfers for which a claim for exclusion is made for a qualified property pursuant to this subdivision and the amount of each exclusion claimed.
- (3) The exclusion provided by this section shall apply only to a qualified property.
- (4) For purposes of this subdivision, both of the following definitions shall apply:
- (A) "Qualified corporation" means a corporation that satisfies all of the following conditions:

(i) Was created between March 1, 1975, and November 6, 1986, inclusive.

(ii) The corporation owns qualified property.

(iii) The only stockholders in the corporation have been the parents and their children.

(B) "Qualified property" means a parcel of land that satisfies both of the following conditions:

(i) Contains the principal place of residence of the parents prior to their death that has been the continuous place of residence of a child of those parents since the creation of the qualified corporation.

(ii) Its full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, as of the date immediately prior to the date of death of the last surviving parent does not exceed one million dollars (\$1,000,000).

# California Code, Revenue and Taxation Code - RTC § 63

Current as of January 01, 2023 |

Notwithstanding any other provision in this chapter, a change of ownership shall not include any interspousal transfer, including, but not limited to:

- (a) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor,
- (b) Transfers which take effect upon the death of a spouse,
- (c) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation, or
- (d) The creation, transfer, or termination, solely between spouses, of any coowner's interest.
- (e) The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of such spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.